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## **Papers relating to the foreign relations of the United States, with the annual message of the president transmitted to Congress December 5, 1899. 1899**

United States Department of State

Washington, D.C.: U.S. Government Printing Office, 1899

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## PAPERS

RELATING TO THE

## FOREIGN RELATIONS

OF

THE UNITED STATES,

u.s. Dept. of State

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 5, 1899.

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1901.

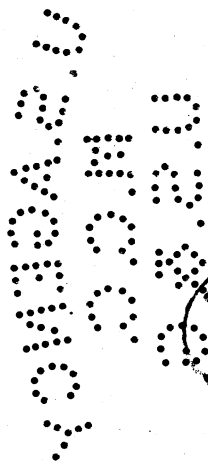


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## MESSAGE.

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*To the Senate and House of Representatives:*

At the threshold of your deliberations you are called to mourn with your countrymen the death of Vice-President Hobart, who passed from this life on the morning of November 21st last. His great soul now rests in eternal peace. His private life was pure and elevated, while his public career was ever distinguished by large capacity, stainless integrity, and exalted motives. He has been removed from the high office which he honored and dignified, but his lofty character, his devotion to duty, his honesty of purpose, and noble virtues remain with us as a priceless legacy and example.

The Fifty-sixth Congress convenes in its first regular session with the country in a condition of unusual prosperity, of universal good will among the people at home, and in relations of peace and friendship with every government of the world. Our foreign commerce has shown great increase in volume and value. The combined imports and exports for the year are the largest ever shown by a single year in all our history. Our imports and exports for 1899 exceeded by more than a billion dollars our imports and exports in 1870; and our exports for 1899 alone exceeded the combined imports and exports of 1870 by about four hundred million dollars. The imports per capita are 20 per cent less than in 1870, while the exports per capita are 58 per cent more than in 1870, showing the enlarged capacity of the United States to satisfy the wants of its own increasing population, as well as to contribute to those of the peoples of other nations.

Exports of agricultural products were \$784,776,142. Of manufactured products we exported in value \$339,592,146, being larger than any previous year. It is a noteworthy fact that the only years in all our history when the products of our manufactories sold abroad exceeded those bought abroad were 1898 and 1899.

Government receipts from all sources for the fiscal year ended June 30, 1899, including \$11,798,314.14, part payment of the Central Pacific Railroad indebtedness, aggregated \$610,982,004.35.

Customs receipts were \$206,128,481.75, and those from internal revenue \$273,437,161.51.

For the fiscal year the expenditures were \$700,093,564.02, leaving a deficit of \$89,111,559.67.

The Secretary of the Treasury estimates that the receipts for the current fiscal year will aggregate \$640,958,112, and upon the basis of present appropriations the expenditures will aggregate \$600,958,112, leaving a surplus of \$40,000,000.

For the fiscal year ended June 30, 1899, the internal-revenue receipts were increased about \$100,000,000.

The present gratifying strength of the Treasury is shown by the fact that on December 1, 1899, the available cash balance was \$278,004,837.72, of which \$239,744,905.36 was in gold coin and bullion. The conditions of confidence which prevail throughout the country have brought gold into more general use and customs receipts are now almost entirely paid in that coin.

The strong position of the Treasury with respect to cash on hand and the favorable showing made by the revenues have made it possible for the Secretary of the Treasury to take action under the provisions of section 3694, Revised Statutes, relating to the sinking fund. Receipts exceeded expenditures for the first five months of the current fiscal year by \$13,413,389.91, and, as mentioned above, the Secretary of the Treasury estimates that there will be a surplus of approximately \$40,000,000 at the end of the year. Under such conditions it was deemed advisable and proper to resume compliance with the provisions of the sinking-fund law, which for eight years has not been done because of deficiencies in the revenues. The Treasury Department therefore offered to purchase during November \$25,000,000 of the 5 per cent loan of 1904, or the 4 per cent funded loan of 1907, at the current market price. The amount offered and purchased during November was \$18,408,600. The premium paid by the Government on such purchases was \$2,263,521 and the net saving in interest was about \$2,885,000. The success of this operation was sufficient to induce the Government to continue the offer to purchase bonds to and including the 23d day of December, instant, unless the remainder of the \$25,000,000 called for should be presented in the meantime for redemption.

Increased activity in industry, with its welcome attendant—a larger employment for labor at higher wages—gives to the body of the people a larger power to absorb the circulating medium. It is further true that year by year, with larger areas of land under cultivation, the increasing volume of agricultural products, cotton, corn,

and wheat, calls for a larger volume of money supply. This is especially noticeable at the crop-harvesting and crop-moving period.

In its earlier history the National Banking Act seemed to prove a reasonable avenue through which needful additions to the circulation could from time to time be made. Changing conditions have apparently rendered it now inoperative to that end. The high margin in bond securities required, resulting from large premiums which Government bonds command in the market, or the tax on note issues, or both operating together, appear to be the influences which impair its public utility.

The attention of Congress is respectfully invited to this important matter with the view of ascertaining whether or not such reasonable modifications can be made in the National Banking Act as will render its service in the particulars here referred to more responsive to the people's needs. I again urge that national banks be authorized to organize with a capital of \$25,000.

I urgently recommend that to support the existing gold standard, and to maintain "the parity in value of the coins of the two metals (gold and silver) and the equal power of every dollar at all times in the market and in the payment of debts," the Secretary of the Treasury be given additional power and charged with the duty to sell United States bonds and to employ such other effective means as may be necessary to these ends. The authority should include the power to sell bonds on long and short time, as conditions may require, and should provide for a rate of interest lower than that fixed by the act of January 14, 1875. While there is now no commercial fright which withdraws gold from the Government, but, on the contrary, such widespread confidence that gold seeks the Treasury demanding paper money in exchange, yet the very situation points to the present as the most fitting time to make adequate provision to insure the continuance of the gold standard and of public confidence in the ability and purpose of the Government to meet all its obligations in the money which the civilized world recognizes as the best. The financial transactions of the Government are conducted upon a gold basis. We receive gold when we sell United States bonds and use gold for their payment. We are maintaining the parity of all the money issued or coined by authority of the Government. We are doing these things with the means at hand. Happily at the present time we are not compelled to resort to loans to supply gold. It has been done in the past, however, and may have to be done in the future. It behooves us, therefore, to provide at once the best means to meet the emergency when it arises, and the best means are those which are the most



certain and economical. Those now authorized have the virtue neither of directness nor economy. We have already eliminated one of the causes of our financial plight and embarrassment during the years 1893, 1894, 1895, and 1896. Our receipts now equal our expenditures; deficient revenues no longer create alarm. Let us remove the only remaining cause by conferring the full and necessary power on the Secretary of the Treasury and impose upon him the duty to uphold the present gold standard and preserve the coins of the two metals on a parity with each other, which is the repeatedly declared policy of the United States.

In this connection I repeat my former recommendations that a portion of the gold holdings shall be placed in a trust fund from which greenbacks shall be redeemed upon presentation, but when once redeemed shall not thereafter be paid out except for gold.

The value of an American merchant marine to the extension of our commercial trade and the strengthening of our power upon the sea invites the immediate action of the Congress. Our national development will be one-sided and unsatisfactory so long as the remarkable growth of our inland industries remains unaccompanied by progress on the seas. There is no lack of constitutional authority for legislation which shall give to the country maritime strength commensurate with its industrial achievements and with its rank among the nations of the earth.

The past year has recorded exceptional activity in our shipyards, and the promises of continual prosperity in shipbuilding are abundant. Advanced legislation for the protection of our seamen has been enacted. Our coast trade, under regulations wisely framed at the beginning of the Government and since, shows results for the past fiscal year unequaled in our records or those of any other power. We shall fail to realize our opportunities, however, if we complacently regard only matters at home and blind ourselves to the necessity of securing our share in the valuable carrying trade of the world.

Last year American vessels transported a smaller share of our exports and imports than during any former year in all our history, and the measure of our dependence upon foreign shipping was painfully manifested to our people. Without any choice of our own, but from necessity, the Departments of the Government charged with military and naval operations in the East and West Indies had to obtain from foreign flags merchant vessels essential for those operations.

The other great nations have not hesitated to adopt the required

means to develop their shipping as a factor in national defense and as one of the surest and speediest means of obtaining for their producers a share in foreign markets. Like vigilance and effort on our part can not fail to improve our situation, which is regarded with humiliation at home and with surprise abroad. Even the seeming sacrifices, which at the beginning may be involved, will be offset later by more than equivalent gains.

The expense is as nothing compared to the advantage to be achieved. The re-establishment of our merchant marine involves in a large measure our continued industrial progress and the extension of our commercial triumphs. I am satisfied the judgment of the country favors the policy of aid to our merchant marine, which will broaden our commerce and markets and upbuild our sea-carrying capacity for the products of agriculture and manufacture; which, with the increase of our Navy, mean more work and wages to our countrymen, as well as a safeguard to American interests in every part of the world.

Combinations of capital organized into trusts to control the conditions of trade among our citizens, to stifle competition, limit production, and determine the prices of products used and consumed by the people, are justly provoking public discussion, and should early claim the attention of the Congress.

The Industrial Commission, created by the act of the Congress of June 18, 1898, has been engaged in extended hearings upon the disputed questions involved in the subject of combinations in restraint of trade and competition. They have not yet completed their investigation of this subject, and the conclusions and recommendations at which they may arrive are undetermined.

The subject is one giving rise to many divergent views as to the nature and variety or cause and extent of the injuries to the public which may result from large combinations concentrating more or less numerous enterprises and establishments, which previously to the formation of the combination were carried on separately.

It is universally conceded that combinations which engross or control the market of any particular kind of merchandise or commodity necessary to the general community, by suppressing natural and ordinary competition, whereby prices are unduly enhanced to the general consumer, are obnoxious not only to the common law but also to the public welfare. There must be a remedy for the evils involved in such organizations. If the present law can be extended more certainly to control or check these monopolies or trusts, it should be done without delay. Whatever power the Con-

gress possesses over this most important subject should be promptly ascertained and asserted.

President Harrison in his Annual Message of December 3, 1889, says:

"Earnest attention should be given by Congress to a consideration of the question how far the restraint of those combinations of capital commonly called 'trusts' is matter of Federal jurisdiction. When organized, as they often are, to crush out all healthy competition and to monopolize the production or sale of an article of commerce and general necessity they are dangerous conspiracies against the public good, and should be made the subject of prohibitory and even penal legislation."

An act to protect trade and commerce against unlawful restraints and monopolies was passed by Congress on the 2d of July, 1890. The provisions of this statute are comprehensive and stringent. It declares every contract or combination, in the form of a trust or otherwise, or conspiracy in the restraint of trade or commerce among the several States or with foreign nations, to be unlawful. It denominates as a criminal every person who makes any such contract or engages in any such combination or conspiracy, and provides a punishment by fine or imprisonment. It invests the several circuit courts of the United States with jurisdiction to prevent and restrain violations of the act, and makes it the duty of the several United States district attorneys, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. It further confers upon any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by the act the power to sue therefor in any circuit court of the United States without respect to the amount in controversy, and to recover threefold the damages by him sustained and the costs of the suit, including reasonable attorney fees. It will be perceived that the act is aimed at every kind of combination in the nature of a trust or monopoly in restraint of interstate or international commerce.

The prosecution by the United States of offenses under the act of 1890 has been frequently resorted to in the Federal courts, and notable efforts in the restraint of interstate commerce, such as the Trans-Missouri Freight Association and the Joint Traffic Association, have been successfully opposed and suppressed.

President Cleveland in his Annual Message of December 7, 1896—more than six years subsequent to the enactment of this law—after stating the evils of these trust combinations, says:

"Though Congress has attempted to deal with this matter by legislation, the laws passed for that purpose thus far have proved

ineffective, not because of any lack of disposition or attempt to enforce them, but simply because the laws themselves as interpreted by the courts do not reach the difficulty. If the insufficiencies of existing laws can be remedied by further legislation, it should be done. The fact must be recognized, however, that all Federal legislation on this subject may fall short of its purpose because of inherent obstacles, and also because of the complex character of our governmental system, which, while making the Federal authority supreme within its sphere, has carefully limited that sphere by metes and bounds which can not be transgressed. The decision of our highest court on this precise question renders it quite doubtful whether the evils of trusts and monopolies can be adequately treated through Federal action, unless they seek directly and purposely to include in their objects transportation or intercourse between States or between the United States and foreign countries.

"It does not follow, however, that this is the limit of the remedy that may be applied. Even though it may be found that Federal authority is not broad enough to fully reach the case, there can be no doubt of the power of the several States to act effectively in the premises, and there should be no reason to doubt their willingness to judiciously exercise such power."

The State legislation to which President Cleveland looked for relief from the evils of trusts has failed to accomplish fully that object. This is probably due to a great extent to the fact that different States take different views as to the proper way to discriminate between evil and injurious combinations and those associations which are beneficial and necessary to the business prosperity of the country. The great diversity of treatment in different States arising from this cause and the intimate relations of all parts of the country to each other without regarding State lines in the conduct of business have made the enforcement of State laws difficult.

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

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

A review of our relations with foreign States is presented with such recommendations as are deemed appropriate.

The long-pending boundary dispute between the Argentine Republic and Chile was settled in March last by the award of an arbitral commission, on which the United States minister at Buenos Ayres served as umpire.

Progress has been made toward the conclusion of a convention of extradition with the Argentine Republic. Having been advised and consented to by the United States Senate and ratified by Argentina, it only awaits the adjustment of some slight changes in the text before exchange.

In my last Annual Message I adverted to the claim of the Austro-Hungarian Government for indemnity for the killing of certain Austrian and Hungarian subjects by the authorities of the State of Pennsylvania, at Lattimer, while suppressing an unlawful tumult of miners, September 10, 1897. In view of the verdict of acquittal rendered by the court before which the sheriff and his deputies were tried for murder, and following the established doctrine that the Government may not be held accountable for injuries suffered by individuals at the hands of the public authorities while acting in the line of duty in suppressing disturbance of the public peace, this Government, after due consideration of the claim advanced by the Austro-Hungarian Government, was constrained to decline liability to indemnify the sufferers.

It is gratifying to be able to announce that the Belgian Government has mitigated the restrictions on the importation of cattle from the United States, to which I referred in my last Annual Message.

Having been invited by Belgium to participate in a congress, held at Brussels, to revise the provisions of the general act of July 2, 1890, for the repression of the African slave trade, to which the United States was a signatory party, this Government preferred not to be represented by a plenipotentiary, but reserved the right of accession to the result. Notable changes were made, those especially concerning this country being in the line of the increased restriction of the deleterious trade in spirituous liquors with the native tribes, which this Government has from the outset urgently advocated. The amended general act will be laid before the Senate, with a view to its advice and consent.

Early in the year the peace of Bolivia was disturbed by a suc-

cessful insurrection. The United States minister remained at his post, attending to the American interests in that quarter, and using besides his good offices for the protection of the interests of British subjects in the absence of their national representative. On the establishment of the new Government our minister was directed to enter into relations therewith.

General Pando was elected President of Bolivia on October 23d.

Our representative has been instructed to use all permissible friendly endeavors to induce the Government of Bolivia to amend its marriage laws so as to give legal status to the non-Catholic and civil marriages of aliens within its jurisdiction, and strong hopes are entertained that the Bolivian law in this regard will be brought, as was that of Peru some years ago, into harmony with the general practice of modern states.

A convention of extradition with Brazil, signed May 14, 1897, has been ratified by the Brazilian Legislature.

During the past summer two national ships of the United States have visited Brazilian ports on a friendly mission and been cordially received. The voyage of the *Wilmington* up the Amazon River gave rise to a passing misunderstanding, owing to confusion in obtaining permission to visit the interior and make surveys in the general interest of navigation, but the incident found a ready adjustment in harmony with the close relations of amity which this Government has always sedulously sought to cultivate with the commonwealths of the Western Continent.

The claim growing out of the seizure of the American-owned newspaper The Panama Star and Herald by the authorities of Colombia has been settled, after a controversy of several years, by an agreement assessing at \$30,000 the indemnity to be paid by the Colombian Government, in three installments of \$10,000 each.

The good will of Colombia toward our country has been testified anew by the cordial extension of facilities to the Nicaraguan Canal Commission in their approaching investigation of the Panama Canal and other projected routes across the Isthmus of Darien.

Toward the end of October an insurrectionary disturbance developed in the Colombian Republic. This movement has thus far not attained any decisive result and is still in progress.

Discussion of the questions raised by the action of Denmark in imposing restrictions on the importation of American meats has continued without substantial result in our favor.

The neighboring island Republic of Santo Domingo has lately been the scene of revolution, following a long period of tranquillity. It began with the killing of President Heureaux in July last, and culminated in the relinquishment by the succeeding vice-president of the reins of government to the insurgents. The first act of the provisional government was the calling of a presidential and constituent election. Juan Isidro Jimenez, having been elected President, was inaugurated on the 14th of November. Relations have been entered into with the newly established Government.

The experimental association of Nicaragua, Honduras, and Salvador, under the title of the Greater Republic of Central America, when apparently on the threshold of a complete federal organization by the adoption of a constitution and the formation of a national legislature, was disrupted in the last days of November, 1898, by the withdrawal of Salvador. Thereupon Nicaragua and Honduras abandoned the joint compact, each resuming its former independent sovereignty. This was followed by the reception of Minister Merry by the Republics of Nicaragua and Salvador, while Minister Hunter in turn presented his credentials to the Government of Honduras, thus reverting to the old distribution of the diplomatic agencies of the United States in Central America for which our existing statutes provide. A Nicaraguan envoy has been accredited to the United States.

An insurrectionary movement, under General Reyes, broke out at Bluefields in February last, and for a time exercised actual control in the Mosquito Territory. The *Detroit* was promptly sent thither for the protection of American interests. After a few weeks the Reyes government renounced the conflict, giving place to the restored supremacy of Nicaragua. During the interregnum certain public dues accruing under Nicaraguan law were collected from American merchants by the authorities for the time being in effective administrative control. Upon the titular government regaining power a second payment of these dues was demanded. Controversy arose touching the validity of the original payment of the debt to the *de facto* regent of the territory. An arrangement was effected in April last by the United States minister and the foreign secretary of Nicaragua whereby the amounts of the duplicate payments were deposited with the British consul pending an adjustment of the matter by direct agreement between the Governments of the United States and Nicaragua. The controversy is still unsettled.

The contract of the Maritime Canal Company of Nicaragua was declared forfeited by the Nicaraguan Government on the 10th of October, on the ground of nonfulfillment within the ten years' term stipulated in the contract. The Maritime Canal Company has lodged a protest against this action, alleging rights in the premises which appear worthy of consideration. This Government expects that Nicaragua will afford the protestants a full and fair hearing upon the merits of the case.

The Nicaragua Canal Commission, which had been engaged upon the work of examination and survey for a ship-canal route across Nicaragua, having completed its labors and made its report, was dissolved on May 31, and on June 10 a new commission, known as the Isthmian Canal Commission, was organized under the terms of the act approved March 3, 1899, for the purpose of examining the American Isthmus with a view to determining the most practicable and feasible route for a ship canal across that Isthmus, with its probable cost, and other essential details.

This Commission, under the presidency of Rear-Admiral John G. Walker, U. S. N. (retired), entered promptly upon the work intrusted to it, and is now carrying on examinations in Nicaragua along the route of the Panama Canal, and in Darien from the Atlantic, in the neighborhood of the Atrato River, to the Bay of Panama, on the Pacific side. Good progress has been made, but under the law a comprehensive and complete investigation is called for, which will require much labor and considerable time for its accomplishment. The work will be prosecuted as expeditiously as possible and a report made at the earliest practicable date.

The great importance of this work can not be too often or too strongly pressed upon the attention of the Congress. In my Message of a year ago I expressed my views of the necessity of a canal which would link the two great oceans, to which I again invite your consideration. The reasons then presented for early action are even stronger now.

A pleasing incident in the relations of this Government with that of Chile occurred in the generous assistance given to the war ship *Newark* when in distress in Chilean waters. Not alone in this way has the friendly disposition of Chile found expression. That country has acceded to the convention for the establishment of the Bureau of the American Republics, in which organization every independent State of the continent now shares.

The exchange of ratifications of a convention for the revival of the United States and Chilean Claims Commission and for the



adjudication of claims heretofore presented but not determined during the life of the previous Commission has been delayed by reason of the necessity for fresh action by the Chilean Senate upon the amendments attached to the ratification of the treaty by the United States Senate. This formality is soon to be accomplished.

In view of disturbances in the populous provinces of northern China, where are many of our citizens, and of the imminence of disorder near the capital and toward the seaboard, a guard of marines was landed from the *Boston* and stationed during last winter in the legation compound at Peking. With the restoration of order this protection was withdrawn.

The interests of our citizens in that vast Empire have not been neglected during the past year. Adequate protection has been secured for our missionaries and some injuries to their property have been redressed.

American capital has sought and found various opportunities of competing to carry out the internal improvements which the Imperial Government is wisely encouraging, and to develop the natural resources of the Empire. Our trade with China has continued to grow, and our commercial rights under existing treaties have been everywhere maintained during the past year, as they will be in the future.

The extension of the area open to international foreign settlement at Shanghai and the opening of the ports of Nanking, Tsing-tao (Kiao chao), and Ta-lien-wan to foreign trade and settlement will doubtless afford American enterprise additional facilities and new fields, of which it will not be slow to take advantage.

In my Message to Congress of December 5, 1898, I urged that the recommendation which had been made to the Speaker of the House of Representatives by the Secretary of the Treasury on the 14th of June, 1898, for an appropriation for a commission to study the commercial and industrial conditions in the Chinese Empire and report as to the opportunities for, and obstacles to, the enlargement of markets in China for the raw products and manufactures of the United States, should receive at your hands the consideration which its importance and timeliness merited, but the Congress failed to take action.

I now renew this recommendation, as the importance of the subject has steadily grown since it was first submitted to you, and no time should be lost in studying for ourselves the resources of this great field for American trade and enterprise.

The death of President Faure in February last called forth those sincere expressions of sympathy which befit the relations of two Republics as closely allied by unbroken historic ties as are the United States and France.

Preparations for the representation of the industries, arts, and products of the United States at the World's Exposition to be held in Paris next year continue on an elaborate and comprehensive scale, thanks to the generous appropriation provided by Congress and to the friendly interest the French Government has shown in furthering a typical exhibit of American progress.

There has been allotted to the United States a considerable addition of space, which, while placing our country in the first rank among exhibitors, does not suffice to meet the increasingly urgent demands of our manufacturers. The efforts of the Commissioner-General are ably directed toward a strictly representative display of all that most characteristically marks American achievement in the inventive arts, and most adequately shows the excellence of our natural productions.

In this age of keen rivalry among nations for mastery in commerce, the doctrine of evolution and the rule of the survival of the fittest must be as inexorable in their operation as they are positive in the results they bring about. The place won in the struggle by an industrial people can only be held by unrelaxed endeavor and constant advance in achievement. The present extraordinary impetus in every line of American exportation and the astounding increase in the volume and value of our share in the world's markets may not be attributed to accidental conditions.

The reasons are not far to seek. They lie deep in our national character and find expression year by year in every branch of handicraft, in every new device whereby the materials we so abundantly produce are subdued to the artisan's will and made to yield the largest, most practical, and most beneficial return. The American exhibit at Paris should, and I am confident will, be an open volume, whose lessons of skillfully directed endeavor, unfaltering energy, and consummate performance may be read by all on every page, thus spreading abroad a clearer knowledge of the worth of our productions and the justice of our claim to an important place in the marts of the world. To accomplish this by judicious selection, by recognition of paramount merit in whatever walk of trade or manufacture it may appear, and by orderly classification and attractive installation is the task of our Commission.

The United States Government building is approaching completion, and no effort will be spared to make it worthy, in beauty of archi-

tectural plan and in completeness of display, to represent our nation. It has been suggested that a permanent building of similar or appropriate design be erected on a convenient site, already given by the municipality, near the Exposition grounds, to serve in commemoration of the part taken by this country in this great enterprise, as an American National Institute, for our countrymen resorting to Paris for study.

I am informed by our Commissioner-General that we shall have in the American sections at Paris over 7,000 exhibitors, from every State in our country, a number ten times as great as those which were represented at Vienna in 1873, six times as many as those in Paris in 1878, and four times as many as those who exhibited in Paris in 1889. This statement does not include the exhibits from either Cuba, Porto Rico, or Hawaii, for which arrangements have been made.

A number of important international congresses on special topics affecting public interests are proposed to be held in Paris next summer in connection with the Exposition. Effort will be made to have the several technical branches of our administration efficiently represented at those conferences, each in its special line, and to procure the largest possible concourse of State representatives, particularly at the Congresses of Public Charity and of Medicine.

Our relations with Germany continue to be most cordial. The increasing intimacy of direct association has been marked during the year by the granting permission in April for the landing on our shores of a cable from Borkum Emden, on the North Sea, by way of the Azores, and also by the conclusion on September 2d of a Parcels Post Convention with the German Empire. In all that promises closer relations of intercourse and commerce and a better understanding between two races having so many traits in common, Germany can be assured of the most cordial cooperation of this Government and people. We may be rivals in many material paths, but our rivalry should be generous and open, ever aiming toward the attainment of larger results and the mutually beneficial advancement of each in the line of its especial adaptabilities.

The several governments of the Empire seem reluctant to admit the natural excellence of our food productions and to accept the evidence we constantly tender of the care with which their purity is guarded by rigid inspection from the farm, through the slaughterhouse and the packing establishments, to the port of shipment. Our system of control over exported food staples invites examination from any quarter and challenges respect by its efficient thoroughness.

It is to be hoped that in time the two Governments will act in common accord toward the realization of their common purpose to safeguard the public health and to insure the purity and wholesomeness of all food products imported by either country from the other. Were the Congress to authorize an invitation to Germany, in connection with the pending reciprocity negotiations, for the constitution of a joint commission of scientific experts and practical men of affairs to conduct a searching investigation of food production and exportation in both countries and report to their respective legislatures for the adoption of such remedial measures as they might recommend for either, the way might be opened for the desirable result indicated.

Efforts to obtain for American life insurance companies a full hearing as to their business operations in Prussia have, after several years of patient representation, happily succeeded, and one of the most important American companies has been granted a concession to continue business in that Kingdom.

I am also glad to announce that the German insurance companies have been readmitted by the superintendent of insurance to do business in the State of New York.

Subsequent to the exchange of our peace treaty with Spain Germany acquired the Caroline Islands by purchase, paying therefor \$5,000,000. Assurances have been received from the German Government that the rights of American missionaries and traders there will be considerably observed.

In my last Annual Message I referred to the pending negotiations with Great Britain in respect to the Dominion of Canada. By means of an executive agreement a Joint High Commission had been created for the purpose of adjusting all unsettled questions between the United States and Canada, embracing twelve subjects, among which were the questions of the fur seals, the fisheries of the coast and contiguous inland waters, the Alaskan boundary, the transit of merchandise in bond, the alien labor laws, mining rights, reciprocity in trade, revision of the agreement respecting naval vessels in the Great Lakes, a more complete marking of parts of the boundary, provision for the conveyance of criminals, and for wrecking and salvage.

Much progress had been made by the Commission toward the adjustment of many of these questions, when it became apparent that an irreconcilable difference of views was entertained respecting the delimitation of the Alaskan boundary. In the failure of an agreement as to the meaning of articles 3 and 4 of the treaty of 1825

between Russia and Great Britain, which defined the boundary between Alaska and Canada, the American Commissioners proposed that the subject of the boundary be laid aside and that the remaining questions of difference be proceeded with, some of which were so far advanced as to assure the probability of a settlement. This being declined by the British Commissioners, an adjournment was taken until the boundary should be adjusted by the two Governments. The subject has been receiving the careful attention which its importance demands, with the result that a *modus vivendi* for provisional demarcations in the region about the head of Lynn Canal has been agreed upon; and it is hoped that the negotiations now in progress between the two Governments will end in an agreement for the establishment and delimitation of a permanent boundary.

Apart from these questions growing out of our relationship with our northern neighbor, the most friendly disposition and ready agreement have marked the discussion of numerous matters arising in the vast and intimate intercourse of the United States with Great Britain.

This Government has maintained an attitude of neutrality in the unfortunate contest between Great Britain and the Boer States of Africa. We have remained faithful to the precept of avoiding entangling alliances as to affairs not of our direct concern. Had circumstances suggested that the parties to the quarrel would have welcomed any kindly expression of the hope of the American people that war might be averted, good offices would have been gladly tendered. The United States representative at Pretoria was early instructed to see that all neutral American interests be respected by the combatants. This has been an easy task in view of the positive declarations of both British and Boer authorities that the personal and property rights of our citizens should be observed.

Upon the withdrawal of the British agent from Pretoria the United States consul was authorized, upon the request of the British Government and with the assent of the South African and Orange Free State Governments, to exercise the customary good offices of a neutral for the care of British interests. In the discharge of this function I am happy to say that abundant opportunity has been afforded to show the impartiality of this Government toward both the combatants.

For the fourth time in the present decade question has arisen with the Government of Italy in regard to the lynching of Italian subjects. The latest of these deplorable events occurred at Tallulah, Louisiana, whereby five unfortunates of Italian origin were taken from jail and hanged.

The authorities of the State and a representative of the Italian Embassy having separately investigated the occurrence, with discrepant results, particularly as to the alleged citizenship of the victims, and it not appearing that the State had been able to discover and punish the violators of the law, an independent investigation has been set on foot, through the agency of the Department of State, and is still in progress. The result will enable the Executive to treat the question with the Government of Italy in a spirit of fairness and justice. A satisfactory solution will doubtless be reached.

The recurrence of these distressing manifestations of blind mob fury directed at dependents or natives of a foreign country suggests that the contingency has arisen for action by Congress in the direction of conferring upon the Federal courts jurisdiction in this class of international cases where the ultimate responsibility of the Federal Government may be involved. The suggestion is not new. In his Annual Message of December 9, 1891, my predecessor, President Harrison, said:

"It would, I believe, be entirely competent for Congress to make offenses against the treaty rights of foreigners domiciled in the United States cognizable in the Federal courts. This has not, however, been done, and the Federal officers and courts have no power in such cases to intervene either for the protection of a foreign citizen or for the punishment of his slayers. It seems to me to follow, in this state of the law, that the officers of the State charged with police and judicial powers in such cases must, in the consideration of international questions growing out of such incidents, be regarded in such sense as Federal agents as to make this Government answerable for their acts in cases where it would be answerable if the United States had used its constitutional power to define and punish crimes against treaty rights."

A bill to provide for the punishment of violations of treaty rights of aliens was introduced in the Senate March 1, 1892, and reported favorably March 30. Having doubtless in view the language of that part of Article III of the treaty of February 26, 1871, between the United States and Italy, which stipulates that "The citizens of each of the high contracting parties shall receive, in the States and Territories of the other, most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or shall be granted to the natives, on their submitting themselves to the conditions imposed upon the natives," the bill so introduced and reported provided that any act committed in any State or Territory of the United States in violation of the rights of a citizen or subject of a foreign country secured to such citizen or subject by treaty between the United

States and such foreign country and constituting a crime under the laws of the State or Territory shall constitute a like crime against the United States and be cognizable in the Federal courts. No action was taken by Congress in the matter.

I earnestly recommend that the subject be taken up anew and acted upon during the present session. The necessity for some such provision abundantly appears. Precedent for constituting a Federal jurisdiction in criminal cases where aliens are sufferers is rationally deducible from the existing statute, which gives to the district and circuit courts of the United States jurisdiction of civil suits brought by aliens where the amount involved exceeds a certain sum. If such jealous solicitude be shown for alien rights in cases of merely civil and pecuniary import, how much greater should be the public duty to take cognizance of matters affecting the life and the rights of aliens under the settled principles of international law no less than under treaty stipulation, in cases of such transcendent wrongdoing as mob murder, especially when experience has shown that local justice is too often helpless to punish the offenders.

After many years of endeavor on the part of this Government to that end the Italian Government has consented to enter into negotiations for a naturalization convention, having for one of its objects the regulation of the status of Italians (except those of an age for active military service) who, having been naturalized in the United States, may revisit Italy. It is hoped that with the mutually conciliatory spirit displayed a successful conclusion will be reached.

The treaty of commerce and navigation between the United States and Japan on November 22, 1894, took effect in accordance with the terms of its XIXth Article on the 17th of July last, simultaneously with the enforcement of like treaties with the other powers, except France, whose convention did not go into operation until August 4th, the United States being, however, granted up to that date all the privileges and rights accorded to French citizens under the old French treaty. By this notable conventional reform Japan's position as a fully independent sovereign power is assured, control being gained of taxation, customs revenues, judicial administration, coasting trade, and all other domestic functions of government, and foreign extra-territorial rights being renounced.

Comprehensive codes of civil and criminal procedure according to western methods, public instruction, patents and copyrights, municipal administration, including jurisdiction over the former foreign settlements, customs tariffs and procedure, public health, and other administrative measures have been proclaimed. The working

of the new system has given rise to no material complaints on the part of the American citizens or interests, a circumstance which attests the ripe consideration with which the change has been prepared.

Valuable assistance was rendered by the Japanese authorities to the United States transport ship *Morgan City* while stranded at Kobe. Permission has been granted to land and pasture army horses at Japanese ports of call on the way to the Philippine Islands. These kindly evidences of good will are highly appreciated.

The Japanese Government has shown a lively interest in the proposition of the Pacific Cable Company to add to its projected cable lines to Hawaii, Guam, and the Philippines a branch connection with the coast of Japan. It would be a gratifying consummation were the utility of the contemplated scheme enhanced by bringing Japan and the United States into direct telegraphic relation.

Without repeating the observations of my special Message of February 10, 1899, concerning the necessity of a cable to Manila, I respectfully invite attention to it.

I recommend that, in case the Congress should not take measures to bring about this result by direct action of the Government, the Postmaster-General be authorized to invite competitive bids for the establishment of a cable; the company making the best responsible bid to be awarded the contract; the successful company to give ample bonds to insure the completion of the work within a reasonable time.

The year has been marked by constant increase in the intimacy of our relations with Mexico and in the magnitude of mutually advantageous interchanges. This Government has omitted no opportunity to show its strong desire to develop and perpetuate the ties of cordiality now so long happily unbroken.

Following the termination on January 20, 1899, by Mexico of the convention of extradition of December 11, 1861, a new treaty more in accordance with the ascertained needs of both countries was signed February 22, 1899, and exchanged in the City of Mexico on the 22d of April last. Its operation thus far has been effective and satisfactory. A recent case has served to test the application of its IVth Article, which provides that neither party shall be bound to deliver up its own citizens, but that the executive authority of each shall have the power to deliver them up if in its discretion it be deemed proper to do so.

The extradition of Mrs. Mattie Rich, a citizen of the United States, charged with homicide committed in Mexico, was after mature con-



sideration directed by me in the conviction that the ends of justice would be thereby subserved. Similar action, on appropriate occasion, by the Mexican Executive will not only tend to accomplish the desire of both Governments that grave crimes go not unpunished, but also to repress lawlessness along the border of the two countries. The new treaty stipulates that neither Government shall assume jurisdiction in the punishment of crimes committed exclusively within the territory of the other. This will obviate in future the embarrassing controversies which have heretofore arisen through Mexico's assertion of a claim to try and punish an American citizen for an offense committed within the jurisdiction of the United States.

The International Water Boundary Commission, organized by the convention of March 1, 1889, for the adjustment of questions affecting the Rio Grande frontier, has not yet completed its labors. A further extension of its term for one year, until December 24, 1899, was effected by a convention signed December 2, 1898, and exchanged and proclaimed in February last.

An invitation extended to the President of Mexico to visit Chicago in October, on the occasion of laying the corner stone of the United States Government building in that city, was cordially accepted by him, with the necessary consent of the Mexican Congress, but the illness of a member of his family prevented his attendance. The Minister of Foreign Relations, however, came as the personal representative of President Diaz, and in that high character was duly honored.

Claims growing out of the seizure of American sealing vessels in Bering Sea have been under discussion with the Government of Russia for several years, with the recent happy result of an agreement to submit them to the decision of a single arbitrator. By this act Russia affords proof of her adherence to the beneficent principle of arbitration which her plenipotentiaries conspicuously favored at The Hague Disarmament Conference when it was advocated by the representatives of the United States.

A suggestion for a permanent exposition of our products and manufactures in Russia, although not yet fully shaped, has been so cordially welcomed by the Imperial Government that it may not inaptly take a fitting place in whatever legislation the Congress may adopt looking to enlargement of our commercial opportunities abroad.

Important events have occurred in the Samoan Islands. The election, according to the laws and customs of Samoa, of a succes-

sor to the late King, Malietoa Laupepa, developed a contest as to the validity of the result, which issue, by the terms of the General Act, was to be decided by the Chief Justice. Upon his rendering a judgment in favor of Malietoa Tanu, the rival chief, Mataafa, took up arms. The active intervention of American and British war ships became imperative to restore order, at the cost of sanguinary encounters. In this emergency a joint commission of representatives of the United States, Germany, and Great Britain was sent to Samoa to investigate the situation and provide a temporary remedy. By its active efforts a peaceful solution was reached for the time being, the kingship being abolished and a provisional government established. Recommendations unanimously made by the commission for a permanent adjustment of the Samoan question were taken under consideration by the three powers parties to the General Act. But the more they were examined the more evident it became that a radical change was necessary in the relations of the powers to Samoa.

The inconveniences and possible perils of the tripartite scheme of supervision and control in the Samoan group by powers having little interest in common in that quarter beyond commercial rivalry had been once more emphasized by the recent events. The suggested remedy of the Joint Commission, like the scheme it aimed to replace, amounted to what has been styled a *tridominium*, being the exercise of the functions of sovereignty by an unanimous agreement of three powers. The situation had become far more intricate and embarrassing from every point of view than it was when my predecessor, in 1894, summed up its perplexities and condemned the participation in it of the United States.

The arrangement under which Samoa was administered had proved impracticable and unacceptable to all the powers concerned. To withdraw from the agreement and abandon the islands to Germany and Great Britain would not be compatible with our interests in the archipelago. To relinquish our rights in the harbor of Pago Pago, the best anchorage in the Pacific, the occupancy of which had been leased to the United States in 1878 by the first foreign treaty ever concluded by Samoa, was not to be thought of either as regards the needs of our Navy or the interests of our growing commerce with the East. We could not have considered any proposition for the abrogation of the tripartite control which did not confirm us in all our rights and safeguard all our national interests in the islands.

Our views commended themselves to the other powers. A satisfactory arrangement was concluded between the Governments of Germany and of England, by virtue of which England retired from

Samoa in view of compensations in other directions, and both powers renounced in favor of the United States all their rights and claims over and in respect to that portion of the group lying to the east of the one hundred and seventy-first degree of west longitude, embracing the islands of Tutuila, Ofoo, Olosenga, and Manua. I transmit to the Senate, for its constitutional action thereon, a convention, which besides the provisions above mentioned also guarantees us the same privileges and conditions in respect to commerce and commercial vessels in all of the islands of Samoa as those possessed by Germany.

Claims have been preferred by white residents of Samoa on account of injuries alleged to have been suffered through the acts of the treaty Governments in putting down the late disturbances. A convention has been made between the three powers for the investigation and settlement of these claims by a neutral arbitrator, to which the attention of the Senate will be invited.

My Annual Message of last year was necessarily devoted in great part to a consideration of the Spanish war and of the results it wrought and the conditions it imposed for the future. I am gratified to announce that the treaty of peace has restored friendly relations between the two powers. Effect has been given to its most important provisions. The evacuation of Porto Rico having already been accomplished on the 18th of October, 1898, nothing remained necessary there but to continue the provisional military control of the island until the Congress should enact a suitable government for the ceded territory. Of the character and scope of the measures to that end I shall treat in another part of this Message.

The withdrawal of the authority of Spain from the island of Cuba was effected by the 1st of January, so that the full re-establishment of peace found the relinquished territory held by us in trust for the inhabitants, maintaining, under the direction of the Executive, such government and control therein as should conserve public order, restore the productive conditions of peace so long disturbed by the instability and disorder which prevailed for the greater part of the preceding three decades, and build up that tranquil development of the domestic state whereby alone can be realized the high purpose, as proclaimed in the joint resolution adopted by the Congress on the 19th of April, 1898, by which the United States disclaimed any disposition or intention to exercise sovereignty, jurisdiction, or control over Cuba, except for the pacification thereof, and asserted its determination when that was accomplished to leave the government and control of the island to its

people. The pledge contained in this resolution is of the highest honorable obligation and must be sacredly kept.

I believe that substantial progress has been made in this direction. All the administrative measures adopted in Cuba have aimed to fit it for a regenerated existence by enforcing the supremacy of law and justice; by placing wherever practicable the machinery of administration in the hands of the inhabitants; by instituting needed sanitary reforms; by spreading education; by fostering industry and trade; by inculcating public morality, and, in short, by taking every rational step to aid the Cuban people to attain to that plane of self-conscious respect and self-reliant unity which fits an enlightened community for self-government within its own sphere, while enabling it to fulfill all outward obligations.

This nation has assumed before the world a grave responsibility for the future good government of Cuba. We have accepted a trust the fulfillment of which calls for the sternest integrity of purpose and the exercise of the highest wisdom. The new Cuba yet to arise from the ashes of the past must needs be bound to us by ties of singular intimacy and strength if its enduring welfare is to be assured. Whether those ties shall be organic or conventional, the destinies of Cuba are in some rightful form and manner irrevocably linked with our own, but how and how far is for the future to determine in the ripeness of events. Whatever be the outcome, we must see to it that free Cuba be a reality, not a name, a perfect entity, not a hasty experiment bearing within itself the elements of failure. Our mission, to accomplish which we took up the wager of battle, is not to be fulfilled by turning adrift any loosely framed commonwealth to face the vicissitudes which too often attend weaker states whose natural wealth and abundant resources are offset by the incongruities of their political organization and the recurring occasions for internal rivalries to sap their strength and dissipate their energies. The greatest blessing which can come to Cuba is the restoration of her agricultural and industrial prosperity, which will give employment to idle men and re-establish the pursuits of peace. This is her chief and immediate need.

On the 19th of August last an order was made for the taking of the census in the island, to be completed on the 30th of November. By the treaty of peace the Spanish people on the island have until April 11, 1900, to elect whether they will remain citizens of Spain or become citizens of Cuba. Until then it can not be definitely ascertained who shall be entitled to participate in the formation of the government of Cuba. By that time the results of the census will have been tabulated and we shall proceed to provide for elec-

tions which will commit the municipal governments of the island to the officers elected by the people. The experience thus acquired will prove of great value in the formation of a representative convention of the people to draft a constitution and establish a general system of independent government for the island. In the meantime and so long as we exercise control over the island the products of Cuba should have a market in the United States on as good terms and with as favorable rates of duty as are given to the West India Islands under treaties of reciprocity which shall be made.

For the relief of the distressed in the island of Cuba the War Department has issued supplies to destitute persons through the officers of the Army, which have amounted to 5,493,000 rations, at a cost of \$1,417,554.07.

To promote the disarmament of the Cuban volunteer army, and in the interest of public peace and the welfare of the people, the sum of \$75 was paid to each Cuban soldier borne upon the authenticated rolls, on condition that he should deposit his arms with the authorities designated by the United States. The sum thus disbursed aggregated \$2,547,750, which was paid from the emergency fund provided by the act of January 5, 1899, for that purpose.

Out of the Cuban island revenues during the six months ending June 30, 1899, \$1,712,014.20 was expended for sanitation, \$293,881.70 for charities and hospitals, and \$88,944.03 for aid to the destitute.

Following the exchange of ratifications of the treaty of peace the two Governments accredited ministers to each other, Spain sending to Washington the Duke of Arcos, an eminent diplomatist, previously stationed in Mexico, while the United States transferred to Madrid Hon. Bellamy Storer, its minister at Brussels. This was followed by the respective appointment of consuls, thereby fully resuming the relations interrupted by the war. In addition to its consular representation in the United States, the Spanish Government has appointed consuls for Cuba, who have been provisionally recognized during the military administration of the affairs of that island.

Judicial intercourse between the courts of Cuba and Porto Rico and of Spain has been established, as provided by the treaty of peace. The Cuban political prisoners in Spanish penal stations have been and are being released and returned to their homes, in accordance with Article VI of the treaty. Negotiations are about to be had for defining the conventional relations between the two countries, which fell into abeyance by reason of the war. I trust that these will include a favorable arrangement for commercial reciprocity under the terms of sections 3 and 4 of the current tariff

act. In these, as in all matters of international concern, no effort will be spared to respond to the good disposition of Spain, and to cultivate in all practicable ways the intimacy which should prevail between two nations whose past history has so often and in so many ways been marked by sincere friendship and by community of interests.

I would recommend appropriate legislation in order to carry into execution Article VII of the Treaty of Peace with Spain, by which the United States assured the payment of certain claims for indemnity of its citizens against Spain.

The United States minister to Turkey continues, under instructions, to press for a money payment in satisfaction of the just claims for injuries suffered by American citizens in the disorders of several years past and for wrongs done to them by the Ottoman authorities. Some of these claims are of many years' standing. This Government is hopeful of a general agreement in this regard.

In the Turkish Empire the situation of our citizens remains unsatisfactory. Our efforts during nearly forty years to bring about a convention of naturalization seem to be on the brink of final failure through the announced policy of the Ottoman Porte to refuse recognition of the alien status of native Turkish subjects naturalized abroad since 1867. Our statutes do not allow this Government to admit any distinction between the treatment of native and naturalized Americans abroad, so that ceaseless controversy arises in cases where persons owing in the eye of international law a dual allegiance are prevented from entering Turkey or are expelled after entrance. Our law in this regard contrasts with that of the European States. The British act, for instance, does not claim effect for the naturalization of an alien in the event of his return to his native country, unless the change be recognized by the law of that country or stipulated by treaty between it and the naturalizing State.

The arbitrary treatment, in some instances, of American productions in Turkey has attracted attention of late, notably in regard to our flour. Large shipments by the recently opened direct steamship line to Turkish ports have been denied entrance on the score that, although of standard composition and unquestioned purity, the flour was pernicious to health because of deficient "elasticity," as indicated by antiquated and untrustworthy tests. Upon due protest by the American minister, and it appearing that the act was a virtual discrimination against our product, the shipments in question were admitted. In these, as in all instances, wherever occurring, when American products may be subjected in a foreign country, upon

specious pretexts, to discrimination compared with the like products of another country, this Government will use its earnest efforts to secure fair and equal treatment for its citizens and their goods. Failing this, it will not hesitate to apply whatever corrective may be provided by the statutes.

The International Commission of Arbitration, appointed under the Anglo-Venezuelan treaty of 1897, rendered an award on October 3d last, whereby the boundary line between Venezuela and British Guiana is determined, thus ending a controversy which has existed for the greater part of the century. The award, as to which the arbitrators were unanimous, while not meeting the extreme contention of either party, gives to Great Britain a large share of the interior territory in dispute and to Venezuela the entire mouth of the Orinoco, including Barima Point and the Caribbean littoral for some distance to the eastward. The decision appears to be equally satisfactory to both parties.

Venezuela has once more undergone a revolution. The insurgents, under General Castro, after a sanguinary engagement in which they suffered much loss, rallied in the mountainous interior and advanced toward the capital. The bulk of the army having sided with the movement, President Andrade quitted Caracas, where General Castro set up a provisional government with which our minister and the representatives of other powers entered into diplomatic relations on the 20th of November, 1899.

The fourth section of the Tariff Act approved July 24th, 1897, appears to provide only for commercial treaties which should be entered into by the President and also ratified by the Senate within two years from its passage. Owing to delays inevitable in negotiations of this nature, none of the treaties initiated under that section could be concluded in time for ratification by the Senate prior to its adjournment on the 4th of March last. Some of the pending negotiations, however, were near conclusion at that time, and the resulting conventions have since been signed by the plenipotentiaries. Others, within both the third and fourth sections of the act, are still under consideration. Acting under the constitutional power of the Executive in respect to treaties, I have deemed it my duty, while observing the limitations of concession provided by the fourth section, to bring to a conclusion all pending negotiations, and submit them to the Senate for its advice and consent.

Conventions of reciprocity have been signed during the Congressional recess with Great Britain for the respective colonies of British

Guiana, Barbados, Bermuda, Jamaica, and Turks and Caicos islands, and with the Republic of Nicaragua.

Important reciprocal conventions have also been concluded with France and with the Argentine Republic.

In my last Annual Message the progress noted in the work of the diplomatic and consular officers in collecting information as to the industries and commerce of other countries, and in the care and promptitude with which their reports are printed and distributed, has continued during the past year, with increasingly valuable results in suggesting new sources of demand for American products and in pointing out the obstacles still to be overcome in facilitating the remarkable expansion of our foreign trade. It will doubtless be gratifying to Congress to learn that the various agencies of the Department of State are co-operating in these endeavors with a zeal and effectiveness which are not only receiving the cordial recognition of our business interests, but are exciting the emulation of other governments. In any rearrangement of the great and complicated work of obtaining official data of an economic character which Congress may undertake it is most important, in my judgment, that the results already secured by the efforts of the Department of State should be carefully considered with a view to a judicious development and increased utility to our export trade.

The interest taken by the various States forming the International Union of American Republics in the work of its organic bureau is evidenced by the fact that for the first time since its creation in 1890 all the republics of South and Central America are now represented in it.

The unanimous recommendation of the International American Conference, providing for the International Union of American Republics, stated that it should continue in force during a term of ten years from the date of its organization, and no country becoming a member of the union should cease to be a member until the end of said period of ten years, and unless twelve months before the expiration of said period a majority of the members of the union had given to the Secretary of State of the United States official notice of their wish to terminate the union at the end of its first period, that the union should continue to be maintained for another period of ten years, and thereafter, under the same conditions, for successive periods of ten years each.

The period for notification expired on July 14, 1899, without any of the members having given the necessary notice of withdrawal.



Its maintenance is therefore assured for the next ten years. In view of this fact and of the numerous questions of general interest and common benefit to all of the republics of America, some of which were considered by the first International American Conference, but not finally settled, and others which have since then grown to importance, it would seem expedient that the various Republics constituting the Union should be invited to hold at an early date another conference in the capital of one of the countries other than the United States, which has already enjoyed this honor.

The purely international character of the work being done by the Bureau and the appreciation of its value are further emphasized by the active co-operation which the various governments of the Latin-American Republics and their diplomatic representatives in this capital are now exhibiting and the zealous endeavors they are making to extend its field of usefulness, to promote through it commercial intercourse, and strengthen the bonds of amity and confidence between its various members and the nations of this continent.

The act to encourage the holding of the Pan-American Exposition on the Niagara frontier, within the county of Erie or Niagara, in the State of New York, in the year 1901, was approved on March 3, 1899.

This Exposition, which will be held in the city of Buffalo, in the near vicinity of the great Niagara cataract, and within a day's journey of which reside 40,000,000 of our people, will be confined entirely to the Western Hemisphere. Satisfactory assurances have already been given by the diplomatic representatives of Great Britain, Mexico, the Central and South American republics, and most of the States of the United States that these countries and States will make an unique, interesting, and instructive exhibit, peculiarly illustrative of their material progress during the century which is about to close.

The law provides an appropriation of \$500,000 for the purpose of making an exhibit at the Exposition by the Government of the United States from its Executive Departments and from the Smithsonian Institution and National Museum, the United States Commission of Fish and Fisheries, the Department of Labor, and the Bureau of the American Republics. To secure a complete and harmonious arrangement of this Government exhibit a board of management has already been created, and charged with the selection, purchase, preparation, transportation, arrangement, and safe-keeping of the articles and materials to be exhibited. This board has been organized and has already entered upon the performance of its duties, as provided for by the law.

I have every reason to hope and believe that this Exposition will tend more firmly to cement the cordial relations between the nations on this continent.

In accordance with an act of Congress approved December 21, 1898, and under the auspices of the Philadelphia Commercial Museum, a most interesting and valuable exposition of products and manufactures especially adapted to export trade was held in Philadelphia from the 14th of September to the 1st of December, 1899. The representative character of the exhibits and the widespread interest manifested in the special objects of the undertaking afford renewed encouragement to those who look confidently to the steady growth of our enlarged exportation of manufactured goods, which has been the most remarkable fact in the economic development of the United States in recent years. A feature of this exposition which is likely to become of permanent and increasing utility to our industries is the collection of samples of merchandise produced in various countries with special reference to particular markets, providing practical object lessons to United States manufacturers as to qualities, styles, and prices of goods such as meet the special demands of consumers and may be exported with advantage.

In connection with the Exposition an International Commercial Congress was held, upon the invitation of the Philadelphia Commercial Museum, transmitted by the Department of State to the various foreign governments, for an exchange of information and opinions with the view to the promotion of international trade. This invitation met with general and cordial acceptance, and the Congress, which began its sessions at the Exposition on the 13th of October, proved to be of great practical importance, from the fact that it developed a general recognition of the interdependence of nations in trade and a most gratifying spirit of accommodation with reference to the gradual removal of existing impediments to reciprocal relations, without injury to the industrial interests of either party.

In response to the invitation of His Majesty the Emperor of Russia, delegates from twenty-six countries were assembled at The Hague on the 18th of May, as members of a conference in the interest of peace. The commission from the United States consisted of the Hon. Andrew D. White, the Hon. Seth Low, the Hon. Stanford Newel, Captain Alfred T. Mahan, of the United States Navy, Captain William Crozier, of the United States Army, and the Hon. Frederick W. Holls, secretary. The occasion seemed to be opportune for the serious consideration of a plan for the pacific

adjustment of international differences, a subject in which the American people have been deeply interested for many years, and a definite project for a permanent international tribunal was included in the instructions to the delegates of the United States.

The final act of the conference includes conventions upon the amelioration of the laws and customs of war on land, the adaptation to maritime warfare of the principles of the Geneva Convention of 1864, and the extension of judicial methods to international cases. The Convention for the Pacific Settlement of International Conflicts embodies the leading features of the American plan, with such modifications as were rendered necessary by the great diversity of views and interests represented by the delegates. The four titles of the convention provide for the maintenance of general peace, the exercise of good offices and mediation, the formation of commissions of inquiry, and international arbitration.

The mediation provided for by the convention is purely voluntary and advisory, and is intended to avoid any invasion or limitation of the sovereign rights of the adhering states. The commissions of inquiry proposed consist of delegations to be specifically constituted for particular purposes by means of conventions between the contesting parties, having for their object the clear understanding of international differences before resorting to the use of force. The provision for arbitration contemplates the formation of a permanent tribunal before which disputed cases may be brought for settlement by the mutual consent of the litigants in each separate case. The advantages of such a permanent tribunal over impromptu commissions of arbitration are conceived to be the actual existence of a competent court, prepared to administer justice, the greater economy resulting from a well-devised system, and the accumulated judicial skill and experience which such a tribunal would soon possess.

While earnestly promoting the idea of establishing a permanent international tribunal, the delegation of the United States was not unmindful of the inconveniences which might arise from an obtrusive exercise of mediation, and in signing the convention carefully guarded the historic position of the United States by the following declaration:

"Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions."

Thus interpreted, the Convention for the Pacific Settlement of International Conflicts may be regarded as realizing the earnest desire of great numbers of American citizens, whose deep sense of justice, expressed in numerous resolutions and memorials, has urged them to labor for this noble achievement. The general character of this convention, already signed by the delegates of more than twenty sovereign states, further commends it to the favorable action of the Senate of the United States, whose ratification it still awaits.

Since my last Annual Message, and in obedience to the acts of the Congress of April 22 and 26, 1898, the remaining volunteer force enlisted for the Spanish war, consisting of 34,834 regulars and 110,202 volunteers, with over 5,000 volunteer officers, has been discharged from the military service. Of the volunteers, 667 officers and 14,831 men were serving in the Philippines, and 1,650 of the regulars, who were entitled to be mustered out after the ratification of the treaty of peace. They voluntarily remained at the front until their places could be filled by new troops. They were returned home in the order in which they went to Manila, and are now all of them out of the service and in the ranks of citizenship. I recommend that the Congress provide a special medal of honor for the volunteers, regulars, sailors, and marines on duty in the Philippines who voluntarily remained in the service after their terms of enlistment had expired.

By the act of March 2, 1899, Congress gave authority to increase the Regular Army to a maximum not exceeding 65,000 enlisted men, and to enlist a force of 35,000 volunteers, to be recruited from the country at large. By virtue of this authority the Regular Army has been increased to the number of 61,999 enlisted men and 2,248 officers, and new volunteer regiments have been organized aggregating 33,050 enlisted men and 1,524 officers. Two of these volunteer regiments are made up of colored men, with colored line officers. The new troops to take the places of those returning from the Philippines have been transported to Manila to the number of 581 officers and 26,322 enlisted men of the Regular Army and 594 officers and 15,388 enlisted men of the new volunteer force, while 504 officers and 14,119 men of the volunteer force are on the ocean en route to Manila.

The force now in Manila consists of 905 officers and 30,578 regulars, and 594 officers and 15,388 of the volunteers, making an aggregate of 1,499 officers and 45,966 men. When the troops now under orders shall reach Manila the force in the archipelago will comprise 2,051 officers and 63,483 men. The muster out of the great

volunteer army organized for the Spanish war and the creation of a new army, the transportation from Manila to San Francisco of those entitled to discharge, and the transportation of the new troops to take their places have been a work of great magnitude well and ably done, for which too much credit can not be given the War Department.

During the past year we have reduced our force in Cuba and Porto Rico. In Cuba we now have 334 officers and 10,796 enlisted men; in Porto Rico, 87 officers and 2,855 enlisted men and a battalion of 400 men composed of native Porto Ricans; while stationed throughout the United States are 910 officers and 17,317 men, and in Hawaii 12 officers and 453 enlisted men.

The operations of the Army are fully presented in the report of the Secretary of War. I can not withhold from officers and men the highest commendation for their soldierly conduct in trying situations, their willing sacrifices for their country, and the integrity and ability with which they have performed unusual and difficult duties in our island possessions.

In the organization of the volunteer regiments authorized by the act of March 2, 1899, it was found that no provision had been made for chaplains. This omission was doubtless from inadvertence. I recommend the early authorization for the appointment of one chaplain for each of said regiments. These regiments are now in the Philippines, and it is important that immediate action be had.

In restoring peaceful conditions, orderly rule, and civic progress in Cuba, Porto Rico, and, so far as practicable, in the Philippines, the rehabilitation of the postal service has been an essential and important part of the work. It became necessary to provide mail facilities both for our forces of occupation and for the native population. To meet this requirement has involved a substantial reconstruction. The existing systems were so fragmentary, defective, and inadequate that a new and comprehensive organization had to be created. American trained officials have been assigned to the directing and executive positions, while natives have been chiefly employed in making up the body of the force. In working out this plan the merit rule has been rigorously and faithfully applied.

The appointment of Director-General of Posts of Cuba was given to an expert who had been Chief Post-Office Inspector and Assistant Postmaster-General, and who united large experience with administrative capacity. For the postmastership at Havana the range of skilled and available men was scanned, and the choice fell upon one who had been twenty years in the service as deputy post-

master and postmaster of a large city. This principle governed and determined the selection of the American officials sent not only to Cuba, but to Porto Rico and the Philippines, and they were instructed to apply it so far as practicable in the employment of the natives as minor postmasters and clerks. The postal system in Cuba, though remaining under the general guidance of the Postmaster-General, was made essentially independent. It was felt that it should not be a burden upon the postal service of the United States, and provision was made that any deficit in the postal revenue should be a charge upon the general revenues of the island.

Though Porto Rico and the Philippines hold a different relation to the United States, yet, for convenience of administration, the same principle of an autonomous system has been extended to them. The development of the service in all of the islands has been rapid and successful. It has moved forward on American lines, with free delivery, money order, and registry systems, and has given the people mail facilities far greater and more reliable than any they have ever before enjoyed. It is thus not only a vital agency of industrial, social, and business progress, but an important influence in diffusing a just understanding of the true spirit and character of American administration.

The domestic postal service continues to grow with extraordinary rapidity. The expenditures and the revenues will each exceed \$100,000,000 during the current year. Fortunately, since the revival of prosperous times the revenues have grown much faster than the expenditures, and there is every indication that a short period will witness the obliteration of the annual deficit. In this connection the report of the Postmaster-General embodies a statement of some evils which have grown up outside of the contemplation of law in the treatment of some classes of mail matter which wrongly exercise the privilege of the pound rate, and shows that if this matter had been properly classified and had paid the rate which it should have paid, instead of a postal deficit for the last fiscal year of \$6,610,000, there would have been on one basis a surplus of \$17,637,570, and on another of \$5,733,836. The reform thus suggested, in the opinion of the Postmaster-General, would not only put the postal service at once on a self-sustaining basis, but would permit great and valuable improvements, and I commend the subject to the consideration of the Congress.

The Navy has maintained the spirit and high efficiency which have always characterized that service, and has lost none of the gallantry in heroic action which has signalized its brilliant and

glorious past. The Nation has equal pride in its early and later achievements. Its habitual readiness for every emergency has won the confidence and admiration of the country. The people are interested in the continued preparation and prestige of the Navy and will justify liberal appropriations for its maintenance and improvement. The officers have shown peculiar adaptation for the performance of new and delicate duties which our recent war has imposed.

It can not be doubted that Congress will at once make necessary provision for the armor plate for the vessels now under contract and building. Its attention is respectfully called to the report of the Secretary of the Navy, in which the subject is fully presented. I unite in his recommendation that the Congress enact such special legislation as may be necessary to enable the Department to make contracts early in the coming year for armor of the best quality that can be obtained in this country for the *Maine*, *Ohio*, and *Missouri*, and that the provision of the act of March 3, 1899, limiting the price of armor to \$300 per ton be removed.

In the matter of naval construction Italy and Japan, of the great powers, laid down less tonnage in the year 1899 than this country, and Italy alone has less tonnage under construction. I heartily concur in the recommendations for the increase of the Navy, as suggested by the Secretary.

Our future progress and prosperity depend upon our ability to equal, if not surpass, other nations in the enlargement and advance of science, industry, and commerce. To invention we must turn as one of the most powerful aids to the accomplishment of such a result. The attention of the Congress is directed to the report of the Commissioner of Patents, in which will be found valuable suggestions and recommendations.

On the 30th of June, 1899, the pension roll of the United States numbered 991,519. These include the pensioners of the Army and Navy in all our wars. The number added to the rolls during the year was 40,991. The number dropped by reason of death, remarriage, minors by legal limitation, failure to claim within three years, and other causes, was 43,186, and the number of claims disallowed was 107,919. During the year 89,054 pension certificates were issued, of which 37,077 were for new or original pensions. The amount disbursed for army and navy pensions during the year was \$138,355,052.95, which was \$1,651,461.61 less than the sum of the appropriations.

The Grand Army of the Republic at its recent national encamp-

ment held in Philadelphia has brought to my attention and to that of the Congress the wisdom and justice of a modification of the third section of the act of June 27, 1890, which provides pensions for the widows of officers and enlisted men who served ninety days or more during the War of the Rebellion and were honorably discharged, provided that such widows are without other means of support than their daily labor and were married to the soldier, sailor, or marine on account of whose service they claim pension prior to the date of the act.

The present holding of the Department is that if the widow's income aside from her daily labor does not exceed in amount what her pension would be, to wit, \$96 per annum, she would be deemed to be without other means of support than her daily labor, and would be entitled to a pension under this act; while if the widow's income independent of the amount received by her as the result of her daily labor exceeds \$96, she would not be pensionable under the act. I am advised by the Commissioner of Pensions that the amount of the income allowed before title to pension would be barred has varied widely under different administrations of the Pension Office, as well as during different periods of the same administration, and has been the cause of just complaint and criticism.

With the approval of the Secretary of the Interior the Commissioner of Pensions recommends that, in order to make the practice at all times uniform and to do justice to the dependent widow, the amount of income allowed independent of the proceeds of her daily labor should be not less than \$250 per annum, and he urges that the Congress shall so amend the act as to permit the Pension Office to grant pensionable status to widows under the terms of the third section of the act of June 27, 1890, whose income aside from the proceeds of daily labor is not in excess of \$250 per annum. I believe this to be a simple act of justice and heartily recommend it.

The Dawes Commission reports that gratifying progress has been made in its work during the preceding year. The fieldwork of enrollment of four of the nations has been completed. I recommend that Congress at an early day make liberal appropriation for educational purposes in the Indian Territory.

In accordance with the act of Congress approved March 3, 1899, the preliminary work in connection with the Twelfth Census is now fully under way. The officers required for the proper administration of the duties imposed have been selected. The provision for securing a proper enumeration of the population, as well as to secure evidence of the industrial growth of the Nation, is broader and more comprehensive than any similar legislation in the past. The



Director advises that every needful effort is being made to push this great work to completion in the time limited by the statute. It is believed that the Twelfth Census will emphasize our remarkable advance in all that pertains to national progress.

Under the authority of the act of Congress approved July 7, 1898, the commission consisting of the Secretary of the Treasury, the Attorney-General, and the Secretary of the Interior has made an agreement of settlement, which has had my approval, of the indebtedness to the Government growing out of the issue of bonds to aid in the construction of the Central Pacific and Western Pacific railroads. The agreement secures to the Government the principal and interest of said bonds, amounting to \$58,812,715.48. There has been paid thereon \$11,762,543.12, which has been covered into the Treasury, and the remainder, payable within ten years, with interest at the rate of 3 per cent per annum, payable semiannually, is secured by the deposit of an equal amount of first-mortgage bonds of the Pacific Railway companies. The amounts paid and secured to be paid to the Government on account of the Pacific Railroad subsidy claims are:

Union Pacific, cash	- - - - -	\$58,448,223.75
Kansas Pacific, cash	- - - - -	6,303,000.00
Central and Western Pacific, cash	- - - - -	11,798,314.14
Notes, secured	- - - - -	47,050,172.36
Kansas Pacific—dividends for deficiency due United States, cash	- - - - -	821,897.70
Making a total of	- - - - -	<u>124,421,607.95</u>

The whole indebtedness was about \$130,000,000, more than half of which consisted of accrued interest, for which sum the Government has realized the entire amount less about \$6,000,000 within a period of two years.

On June 30, 1898, there were thirty forest reservations (exclusive of the Afognak Forest and Fish Culture Reserve in Alaska), embracing an estimated area of 40,719,474 acres. During the past year two of the existing forest reserves, the Tiabuco Canyon (California) and Black Hills (South Dakota and Wyoming) have been considerably enlarged, the area of the Mount Rainier Reserve, in the State of Washington, has been somewhat reduced, and six additional reserves have been established, namely, the San Francisco Mountains (Arizona), the Black Mesa (Arizona), Lake Tahoe (California), Gallatin (Montana), Gila River (New Mexico), and Fish Lake (Utah), the total estimated area of which is 5,205,775 acres. This makes at the present time a total of thirty-six forest reservations,

embracing an estimated area of 46,021,899 acres. This estimated area is the aggregated areas within the boundaries of the reserves. The lands actually reserved are, however, only the vacant public lands therein, and these have been set aside and reserved for sale or settlement in order that they may be of the greatest use to the people.

Protection of the national forests, inaugurated by the Department of the Interior in 1897, has been continued during the past year and much has been accomplished in the way of preventing forest fires and the protection of the timber. There are now large tracts covered by forests which will eventually be reserved and set apart for forest uses. Until that can be done Congress should increase the appropriations for the work of protecting the forests.

The Department of Agriculture is constantly consulting the needs of producers in all the States and Territories. It is introducing seeds and plants of great value and promoting fuller diversification of crops. Grains, grasses, fruits, legumes, and vegetables are imported for all parts of the United States. Under this encouragement the sugar-beet factory multiplies in the North and far West, semi-tropical plants are sent to the South, and congenial climates are sought for the choice productions of the far east. The hybridizing of fruit trees and grains is conducted in the search for varieties adapted to exacting conditions. The introduction of tea gardens into the Southern States promises to provide employment for idle hands, as well as to supply the home market with tea. The subject of irrigation where it is of vital importance to the people is being carefully studied, steps are being taken to reclaim injured or abandoned lands, and information for the people along these lines is being printed and distributed.

Markets are being sought and opened up for surplus farm and factory products in Europe and in Asia. The outlook for the education of the young farmer through agricultural college and experiment station, with opportunity given to specialize in the Department of Agriculture, is very promising. The people of Hawaii, Porto Rico, and the Philippine Islands should be helped, by the establishment of experiment stations, to a more scientific knowledge of the production of coffee, india rubber, and other tropical products, for which there is demand in the United States.

There is widespread interest in the improvement of our public highways at the present time, and the Department of Agriculture is co-operating with the people in each locality in making the best possible roads from local material and in experimenting with steel tracks. A more intelligent system of managing the forests of the

country is being put in operation and a careful study of the whole forestry problem is being conducted throughout the United States. A very extensive and complete exhibit of the agricultural and horticultural products of the United States is being prepared for the Paris Exposition.

On the 10th of December, 1898, the treaty of peace between the United States and Spain was signed. It provided, among other things, that Spain should cede to the United States the archipelago known as the Philippine Islands, that the United States should pay to Spain the sum of twenty millions of dollars, and that the civil rights and political status of the native inhabitants of the territories thus ceded to the United States should be determined by the Congress. The treaty was ratified by the Senate on the 6th of February, 1899, and by the Government of Spain on the 19th of March following. The ratifications were exchanged on the 11th of April and the treaty publicly proclaimed. On the 2d of March the Congress voted the sum contemplated by the treaty, and the amount was paid over to the Spanish Government on the 1st of May.

In this manner the Philippines came to the United States. The islands were ceded by the Government of Spain, which had been in undisputed possession of them for centuries. They were accepted not merely by our authorized commissioners in Paris, under the direction of the Executive, but by the constitutional and well-considered action of the representatives of the people of the United States in both Houses of Congress. I had every reason to believe, and I still believe, that this transfer of sovereignty was in accordance with the wishes and the aspirations of the great mass of the Filipino people.

From the earliest moment no opportunity was lost of assuring the people of the islands of our ardent desire for their welfare and of the intention of this Government to do everything possible to advance their interests. In my order of the 19th of May, 1898, the commander of the military expedition dispatched to the Philippines was instructed to declare that we came not to make war upon the people of that country, "nor upon any party or faction among them, but to protect them in their homes, in their employments, and in their personal and religious rights." That there should be no doubt as to the paramount authority there, on the 17th of August it was directed that "there must be no joint occupation with the insurgents;" that the United States must preserve the peace and protect persons and property within the territory occupied by their military and naval forces; that the insurgents and all others must

recognize the military occupation and authority of the United States. As early as December 4, before the cession, and in anticipation of that event, the commander in Manila was urged to restore peace and tranquillity and to undertake the establishment of a beneficent government, which should afford the fullest security for life and property.

On the 21st of December, after the treaty was signed, the commander of the forces of occupation was instructed "to announce and proclaim in the most public manner that we come, not as invaders and conquerors, but as friends to protect the natives in their homes, in their employments, and in their personal and religious rights." On the same day, while ordering General Otis to see that the peace should be preserved in Iloilo, he was admonished that: "It is most important that there should be no conflict with the insurgents." On the 1st day of January, 1899, urgent orders were reiterated that the kindly intentions of this Government should be in every possible way communicated to the insurgents.

On the 21st of January I announced my intention of dispatching to Manila a commission composed of three gentlemen of the highest character and distinction, thoroughly acquainted with the Orient, who, in association with Admiral Dewey and Major-General Otis, were instructed "to facilitate the most humane and effective extension of authority throughout the islands, and to secure with the least possible delay the benefits of a wise and generous protection of life and property to the inhabitants." These gentlemen were Dr. Jacob Gould Schurman, president of Cornell University; the Hon. Charles Denby, for many years minister to China, and Prof. Dean C. Worcester, of the University of Michigan, who had made a most careful study of life in the Philippines. While the treaty of peace was under consideration in the Senate these Commissioners set out on their mission of good will and liberation. Their character was a sufficient guaranty of the beneficent purpose with which they went, even if they had not borne the positive instructions of this Government, which made their errand preeminently one of peace and friendship.

But before their arrival at Manila the sinister ambition of a few leaders of the Filipinos had created a situation full of embarrassment for us and most grievous in its consequences to themselves. The clear and impartial preliminary report of the Commissioners, which I transmit herewith, gives so lucid and comprehensive a history of the present insurrectionary movement that the story need not be here repeated. It is enough to say that the claim of the rebel leader that he was promised independence by any officer of the United States in

return for his assistance has no foundation in fact and is categorically denied by the very witnesses who were called to prove it. The most the insurgent leader hoped for when he came back to Manila was the liberation of the islands from the Spanish control, which they had been laboring for years without success to throw off.

The prompt accomplishment of this work by the American Army and Navy gave him other ideas and ambitions, and insidious suggestions from various quarters perverted the purposes and intentions with which he had taken up arms. No sooner had our army captured Manila than the Filipino forces began to assume an attitude of suspicion and hostility which the utmost efforts of our officers and troops were unable to disarm or modify. Their kindness and forbearance were taken as a proof of cowardice. The aggressions of the Filipinos continually increased until finally, just before the time set by the Senate of the United States for a vote upon the treaty, an attack, evidently prepared in advance, was made all along the American lines, which resulted in a terribly destructive and sanguinary repulse of the insurgents.

Ten days later an order of the insurgent government was issued to its adherents who had remained in Manila, of which General Otis justly observes that "for barbarous intent it is unequaled in modern times." It directs that at 8 o'clock on the night of the 15th of February the "territorial militia" shall come together in the streets of San Pedro armed with their *bolos*, with guns and ammunition where convenient; that Filipino families only shall be respected; but that all other individuals, of whatever race they may be, shall be exterminated without any compassion, after the extermination of the army of occupation, and adds: "Brothers, we must avenge ourselves on the Americans and exterminate them, that we may take our revenge for the infamies and treacheries which they have committed upon us. Have no compassion upon them; attack with vigor." A copy of this fell by good fortune into the hands of our officers and they were able to take measures to control the rising, which was actually attempted on the night of February 22d, a week later than was originally contemplated. Considerable numbers of armed insurgents entered the city by waterways and swamps and in concert with confederates inside attempted to destroy Manila by fire. They were kept in check during the night and the next day driven out of the city with heavy loss.

This was the unhappy condition of affairs which confronted our Commissioners on their arrival in Manila. They had come with the hope and intention of co-operating with Admiral Dewey and Major-General Otis in establishing peace and order in the archi-

pelago and the largest measure of self-government compatible with the true welfare of the people. What they actually found can best be set forth in their own words:

"Deplorable as war is, the one in which we are now engaged was unavoidable by us. We were attacked by a bold, adventurous, and enthusiastic army. No alternative was left to us except ignominious retreat.

"It is not to be conceived of that any American would have sanctioned the surrender of Manila to the insurgents. Our obligations to other nations and to the friendly Filipinos and to ourselves and our flag demanded that force should be met by force. Whatever the future of the Philippines may be, there is no course open to us now except the prosecution of the war until the insurgents are reduced to submission. The Commission is of the opinion that there has been no time since the destruction of the Spanish squadron by Admiral Dewey when it was possible to withdraw our forces from the islands either with honor to ourselves or with safety to the inhabitants."

The course thus clearly indicated has been unflinchingly pursued. The rebellion must be put down. Civil government can not be thoroughly established until order is restored. With a devotion and gallantry worthy of its most brilliant history, the Army, ably and loyally assisted by the Navy, has carried on this unwelcome but most righteous campaign with richly deserved success. The noble self-sacrifice with which our soldiers and sailors whose terms of service had expired refused to avail themselves of their right to return home as long as they were needed at the front forms one of the brightest pages in our annals. Although their operations have been somewhat interrupted and checked by a rainy season of unusual violence and duration, they have gained ground steadily in every direction, and now look forward confidently to a speedy completion of their task.

The unfavorable circumstances connected with an active campaign have not been permitted to interfere with the equally important work of reconstruction. Again I invite your attention to the report of the Commissioners for the interesting and encouraging details of the work already accomplished in the establishment of peace and order and the inauguration of self-governing municipal life in many portions of the archipelago. A notable beginning has been made in the establishment of a government in the island of Negros which is deserving of special consideration. This was the first island to accept American sovereignty. Its people unreservedly proclaimed allegiance to the United States and adopted a constitution looking to the establishment of a popular government. It was impossible to guarantee to the people of Negros that the con-

stitution so adopted should be the ultimate form of government. Such a question, under the treaty with Spain and in accordance with our own Constitution and laws, came exclusively within the jurisdiction of the Congress. The government actually set up by the inhabitants of Negros eventually proved unsatisfactory to the natives themselves. A new system was put into force by order of the Major-General Commanding the Department, of which the following are the most important elements:

It was ordered that the government of the island of Negros should consist of a military governor appointed by the United States military governor of the Philippines, and a civil governor and an advisory council elected by the people. The military governor was authorized to appoint secretaries of the treasury, interior, agriculture, public instruction, an attorney-general, and an auditor. The seat of government was fixed at Bacolod. The military governor exercises the supreme executive power. He is to see that the laws are executed, appoint to office, and fill all vacancies in office not otherwise provided for, and may, with the approval of the military governor of the Philippines, remove any officer from office. The civil governor advises the military governor on all public civil questions and presides over the advisory council. He, in general, performs the duties which are performed by secretaries of state in our own system of government.

The advisory council consists of eight members elected by the people within territorial limits which are defined in the order of the commanding general.

The times and places of holding elections are to be fixed by the military governor of the island of Negros. The qualifications of voters are as follows:

(1) A voter must be a male citizen of the island of Negros. (2) Of the age of 21 years. (3) He shall be able to speak, read, and write the English, Spanish, or Visayan language, or he must own real property worth \$500, or pay a rental on real property of the value of \$1,000. (4) He must have resided in the island not less than one year preceding, and in the district in which he offers to register as a voter not less than three months immediately preceding the time he offers to register. (5) He must register at a time fixed by law before voting. (6) Prior to such registration he shall have paid all taxes due by him to the Government. Provided, that no insane person shall be allowed to register or vote.

The military governor has the right to veto all bills or resolutions adopted by the advisory council, and his veto is final if not disapproved by the military governor of the Philippines.

The advisory council discharges all the ordinary duties of a legislature. The usual duties pertaining to said offices are to be performed by the secretaries of the treasury, interior, agriculture, public instruction, the attorney-general, and the auditor.

The judicial power is vested in three judges, who are to be appointed by the military governor of the island. Inferior courts are to be established.

Free public schools are to be established throughout the populous districts of the island, in which the English language shall be taught, and this subject will receive the careful consideration of the advisory council.

The burden of government must be distributed equally and equitably among the people. The military authorities will collect and receive the customs revenue, and will control postal matters and Philippine inter-island trade and commerce.

The military governor, subject to the approval of the military governor of the Philippines, determines all questions not specifically provided for and which do not come under the jurisdiction of the advisory council.

The authorities of the Sulu Islands have accepted the succession of the United States to the rights of Spain, and our flag floats over that territory. On the 10th of August, 1899, Brig. Gen. J. C. Bates, United States Volunteers, negotiated an agreement with the Sultan and his principal chiefs, which I transmit herewith. By Article I the sovereignty of the United States over the whole archipelago of Jolo and its dependencies is declared and acknowledged.

The United States flag will be used in the archipelago and its dependencies, on land and sea. Piracy is to be suppressed, and the Sultan agrees to co-operate heartily with the United States authorities to that end and to make every possible effort to arrest and bring to justice all persons engaged in piracy. All trade in domestic products of the archipelago of Jolo when carried on with any part of the Philippine Islands and under the American flag shall be free, unlimited, and undutiable. The United States will give full protection to the Sultan in case any foreign nation should attempt to impose upon him. The United States will not sell the island of Jolo or any other island of the Jolo archipelago to any foreign nation without the consent of the Sultan. Salaries for the Sultan and his associates in the administration of the islands have been agreed upon to the amount of \$760 monthly.

Article X provides that any slave in the archipelago of Jolo shall have the right to purchase freedom by paying to the master the usual market value. The agreement by General Bates was made



subject to confirmation by the President and to future modifications by the consent of the parties in interest. I have confirmed said agreement, subject to the action of the Congress, and with the reservation, which I have directed shall be communicated to the Sultan of Jolo, that this agreement is not to be deemed in any way to authorize or give the consent of the United States to the existence of slavery in the Sulu archipelago. I communicate these facts to the Congress for its information and action.

Everything indicates that with the speedy suppression of the Tagalo rebellion life in the archipelago will soon resume its ordinary course under the protection of our sovereignty, and the people of those favored islands will enjoy a prosperity and a freedom which they have never before known. Already hundreds of schools are open and filled with children. Religious freedom is sacredly assured and enjoyed. The courts are dispensing justice. Business is beginning to circulate in its accustomed channels. Manila, whose inhabitants were fleeing to the country a few months ago, is now a populous and thriving mart of commerce. The earnest and unremitting endeavors of the Commission and the Admiral and Major-General Commanding the Department of the Pacific to assure the people of the beneficent intentions of this Government have had their legitimate effect in convincing the great mass of them that peace and safety and prosperity and stable government can only be found in a loyal acceptance of the authority of the United States.

The future government of the Philippines rests with the Congress of the United States. Few graver responsibilities have ever been confided to us. If we accept them in a spirit worthy of our race and our traditions, a great opportunity comes with them. The islands lie under the shelter of our flag. They are ours by every title of law and equity. They can not be abandoned. If we desert them we leave them at once to anarchy and finally to barbarism. We fling them, a golden apple of discord, among the rival powers, no one of which could permit another to seize them unquestioned. Their rich plains and valleys would be the scene of endless strife and bloodshed. The advent of Dewey's fleet in Manila Bay instead of being, as we hope, the dawn of a new day of freedom and progress, will have been the beginning of an era of misery and violence worse than any which has darkened their unhappy past. The suggestion has been made that we could renounce our authority over the islands and, giving them independence, could retain a protectorate over them. This proposition will not be found, I am sure, worthy of your serious attention. Such an arrangement would involve at the outset a cruel breach of faith. It would place the peaceable and loyal

majority, who ask nothing better than to accept our authority, at the mercy of the minority of armed insurgents. It would make us responsible for the acts of the insurgent leaders and give us no power to control them. It would charge us with the task of protecting them against each other and defending them against any foreign power with which they chose to quarrel. In short, it would take from the Congress of the United States the power of declaring war and vest that tremendous prerogative in the Tagal leader of the hour.

It does not seem desirable that I should recommend at this time a specific and final form of government for these islands. When peace shall be restored it will be the duty of Congress to construct a plan of government which shall establish and maintain freedom and order and peace in the Philippines. The insurrection is still existing, and when it terminates further information will be required as to the actual condition of affairs before inaugurating a permanent scheme of civil government. The full report of the Commission, now in preparation, will contain information and suggestions which will be of value to Congress, and which I will transmit as soon as it is completed. As long as the insurrection continues the military arm must necessarily be supreme. But there is no reason why steps should not be taken from time to time to inaugurate governments essentially popular in their form as fast as territory is held and controlled by our troops. To this end I am considering the advisability of the return of the Commission, or such of the members thereof as can be secured, to aid the existing authorities and facilitate this work throughout the islands. I have believed that reconstruction should not begin by the establishment of one central civil government for all the islands, with its seat at Manila, but rather that the work should be commenced by building up from the bottom, first establishing municipal governments and then provincial governments, a central government at last to follow.

Until Congress shall have made known the formal expression of its will I shall use the authority vested in me by the Constitution and the statutes to uphold the sovereignty of the United States in those distant islands as in all other places where our flag rightfully floats. I shall put at the disposal of the Army and Navy all the means which the liberality of Congress and the people have provided to cause this unprovoked and wasteful insurrection to cease. If any orders of mine were required to insure the merciful conduct of military and naval operations, they would not be lacking; but every step of the progress of our troops has been marked by a humanity which has surprised even the misguided insurgents. The

truest kindness to them will be a swift and effective defeat of their present leader. The hour of victory will be the hour of clemency and reconstruction.

No effort will be spared to build up the waste places desolated by war and by long years of misgovernment. We shall not wait for the end of strife to begin the beneficent work. We shall continue, as we have begun, to open the schools and the churches, to set the courts in operation, to foster industry and trade and agriculture, and in every way in our power to make these people whom Providence has brought within our jurisdiction feel that it is their liberty and not our power, their welfare and not our gain, we are seeking to enhance. Our flag has never waved over any community but in blessing. I believe the Filipinos will soon recognize the fact that it has not lost its gift of benediction in its world-wide journey to their shores.

Some embarrassment in administration has occurred by reason of the peculiar status which the Hawaiian Islands at present occupy under the joint resolution of annexation approved July 7, 1898. While by that resolution the Republic of Hawaii as an independent nation was extinguished, its separate sovereignty destroyed, and its property and possessions vested in the United States, yet a complete establishment for its government under our system was not effected. While the municipal laws of the islands not enacted for the fulfillment of treaties and not inconsistent with the joint resolution or contrary to the Constitution of the United States or any of its treaties remain in force, yet these laws relate only to the social and internal affairs of the islands, and do not touch many subjects of importance which are of a broader national character. For example, the Hawaiian Republic was divested of all title to the public lands in the islands, and is not only unable to dispose of lands to settlers desiring to take up homestead sites, but is without power to give complete title in cases where lands have been entered upon under lease or other conditions which carry with them the right to the purchaser, lessee, or settler to have a full title granted to him upon compliance with the conditions prescribed by law or by his particular agreement of entry.

Questions of doubt and difficulty have also arisen with reference to the collection of tonnage tax on vessels coming from Hawaiian ports; with reference to the status of Chinese in the islands, their entrance and exit therefrom; as to patents and copyrights; as to the register of vessels under the navigation laws; as to the necessity of holding elections in accordance with the provisions of the Hawaiian

statutes for the choice of various officers, and as to several other matters of detail touching the interests both of the island and of the Federal Government.

By the resolution of annexation the President was directed to appoint five commissioners to recommend to Congress such legislation concerning the islands as they should deem necessary or proper. These commissioners were duly appointed and after a careful investigation and study of the system of laws and government prevailing in the islands, and of the conditions existing there, they prepared a bill to provide a government under the title of "The Territory of Hawaii." The report of the Commission, with the bill which they prepared, was transmitted by me to Congress on December 6, 1898, but the bill still awaits final action.

The people of these islands are entitled to the benefits and privileges of our Constitution, but in the absence of any act of Congress providing for Federal courts in the islands, and for a procedure by which appeals, writs of error, and other judicial proceedings necessary for the enforcement of civil rights may be prosecuted, they are powerless to secure their enforcement by the judgment of the courts of the United States. It is manifestly important, therefore, that an act shall be passed as speedily as possible erecting these islands into a judicial district, providing for the appointment of a judge and other proper officers and methods of procedure in appellate proceedings, and that the government of this newly acquired territory under the Federal Constitution shall be fully defined and provided for.

A necessity for immediate legislative relief exists in the Territory of Alaska. Substantially the only law providing a civil government for this Territory is the act of May 17, 1884. This is meager in its provisions, and is fitted only for the administration of affairs in a country sparsely inhabited by civilized people and unimportant in trade and production, as was Alaska at the time this act was passed. The increase in population by immigration during the past few years, consequent upon the discovery of gold, has produced such a condition as calls for more ample facilities for local self-government and more numerous conveniences of civil and judicial administration. Settlements have grown up in various places, constituting in point of population and business cities of thousands of inhabitants, yet there is no provision of law under which a municipality can be organized or maintained.

In some localities the inhabitants have met together and voluntarily formed a municipal organization for the purposes of local government, adopting the form of a municipal constitution and

charter, under which said officials have been appointed; and ordinances creating and regulating a police force, a fire department, a department of health, and making provision for the care of the insane and indigent poor and sick and for public schools, have been passed. These proceedings and the ordinances passed by such municipalities are without statutory authority and have no sanction, except as they are maintained by the popular sentiment of the community. There is an entire absence of authority to provide the ordinary instruments of local police control and administration, the population consisting of the usual percentage of lawless adventurers of the class that always flock to new fields of enterprise or discovery, and under circumstances which require more than ordinary provision for the maintenance of peace, good order, and lawful conduct.

The whole vast area of Alaska comprises but one judicial district, with one judge, one marshal, and one district attorney, yet the civil and criminal business has more than doubled within the past year, and is many times greater both in volume and importance than it was in 1884. The duties of the judge require him to travel thousands of miles to discharge his judicial duties at the various places designated for that purpose. The Territory should be divided into at least two districts, and an additional judge, district attorney, marshal, and other appropriate officers be provided.

There is practically no organized form of government in the Territory. There is no authority, except in Congress, to pass any law, no matter how local or trivial, and the difficulty of conveying to the Congress an adequate conception and understanding of the various needs of the people in the different communities is easily understood. I see no reason why a more complete form of Territorial organization should not be provided. Following the precedent established in the year 1805, when a temporary government was provided for the recently acquired territory, then known under the name of Louisiana, it seems to me that it would be advantageous to confer greater executive power upon the governor and to establish, as was done in the case of the Territory of Louisiana, a legislative council having power to adopt ordinances which shall extend to all the rightful subjects of local legislation, such ordinances not to take effect until reported to and approved by the Congress if in session, and if that body is not in session then by the President. In this manner a system of laws providing for the incorporation and government of towns and cities having a certain population, giving them the power to establish and maintain a system of education to be locally supported, and ordinances providing for police, sanitary, and other such purposes, could be speedily provided. I believe a pro-

vision of this kind would be satisfactory to the people of the Territory. It is probable that the area is too vast and the population too scattered and transitory to make it wise at the present time to provide for an elective legislative body, but the conditions calling for local self-government will undoubtedly very soon exist, and will be facilitated by the measures which I have recommended.

I recommend that legislation to the same end be had with reference to the government of Porto Rico. The time is ripe for the adoption of a temporary form of government for this island; and many suggestions made with reference to Alaska are applicable also to Porto Rico.

The system of civil jurisprudence now adopted by the people of this island is described by competent lawyers who are familiar with it, as thoroughly modern and scientific, so far as it relates to matters of internal business, trade, production, and social and private right in general. The cities of the island are governed under charters which probably require very little or no change. So that with relation to matters of local concern and private right, it is not probable that much, if any, legislation is desirable; but with reference to public administration and the relations of the island to the Federal Government, there are many matters which are of pressing urgency. The same necessity exists for legislation on the part of Congress to establish Federal courts and Federal jurisdiction in the island as has been previously pointed out by me with reference to Hawaii. Besides the administration of justice, there are the subjects of the public lands; the control and improvement of rivers and harbors; the control of the waters or streams not navigable, which, under the Spanish law, belonged to the Crown of Spain, and have by the treaty of cession passed to the United States; the immigration of people from foreign countries; the importation of contract labor; the imposition and collection of internal revenue; the application of the navigation laws; the regulation of the current money; the establishment of post-offices and post-roads; the regulation of tariff rates on merchandise imported from the island into the United States; the establishment of ports of entry and delivery; the regulation of patents and copyrights; these, with various other subjects which rest entirely within the power of the Congress, call for careful consideration and immediate action.

It must be borne in mind that since the cession Porto Rico has been denied the principal markets she had long enjoyed and our tariffs have been continued against her products as when she was under Spanish sovereignty. The markets of Spain are closed to her

products except upon terms to which the commerce of all nations is subjected. The island of Cuba, which used to buy her cattle and tobacco without customs duties, now imposes the same duties upon these products as from any other country entering her ports. She has therefore lost her free intercourse with Spain and Cuba without any compensating benefits in this market. Her coffee was little known and not in use by our people, and therefore there was no demand here for this, one of her chief products. The markets of the United States should be opened up to her products. Our plain duty is to abolish all customs tariffs between the United States and Porto Rico and give her products free access to our markets.

As a result of the hurricane which swept over Porto Rico on the 8th of August, 1899, over 100,000 people were reduced to absolute destitution, without homes, and deprived of the necessities of life. To the appeal of the War Department the people of the United States made prompt and generous response. In addition to the private charity of our people, the War Department has expended for the relief of the distressed \$392,342.63, which does not include the cost of transportation.

It is desirable that the government of the island under the law of belligerent right, now maintained through the Executive Department, should be superseded by an administration entirely civil in its nature. For present purposes I recommend that Congress pass a law for the organization of a temporary government, which shall provide for the appointment by the President, subject to confirmation by the Senate, of a governor and such other officers as the general administration of the island may require, and that for legislative purposes upon subjects of a local nature not partaking of a Federal character a legislative council, composed partly of Porto Ricans and partly of citizens of the United States, shall be nominated and appointed by the President, subject to confirmation by the Senate, their acts to be subject to the approval of the Congress or the President prior to going into effect. In the municipalities and other local subdivisions I recommend that the principle of local self-government be applied at once, so as to enable the intelligent citizens of the island to participate in their own government and to learn by practical experience the duties and requirements of a self-contained and self-governing people. I have not thought it wise to commit the entire government of the island to officers selected by the people, because I doubt whether in habits, training, and experience they are such as to fit them to exercise at once so large a degree of self-government; but it is my judgment and expectation that they will soon arrive at an attainment of experience and wisdom and self-

control that will justify conferring upon them a much larger participation in the choice of their insular officers.

The fundamental requirement for these people, as for all people, is education. The free schoolhouse is the best preceptor for citizenship. In the introduction of modern educational methods care, however, must be exercised that changes be not made too abruptly and that the history and racial peculiarities of the inhabitants shall be given due weight. Systems of education in these new possessions founded upon common-sense methods, adapted to existing conditions and looking to the future moral and industrial advancement of the people, will commend to them in a peculiarly effective manner the blessings of free government.

The love of law and the sense of obedience and submission to the lawfully constituted judicial tribunals are embedded in the hearts of our people, and any violation of these sentiments and disregard of their obligations justly arouses public condemnation. The guaranties of life, liberty, and of civil rights should be faithfully upheld; the right of trial by jury respected and defended. The rule of the courts should assure the public of the prompt trial of those charged with criminal offenses, and upon conviction the punishment should be commensurate with the enormity of the crime.

Those who, in disregard of law and the public peace, unwilling to await the judgment of court and jury, constitute themselves judges and executioners should not escape the severest penalties for their crimes.

What I said in my Inaugural Address of March 4, 1897, I now repeat:

"The constituted authorities must be cheerfully and vigorously upheld. Lynchings must not be tolerated in a great and civilized country like the United States. Courts, not mobs, must execute the penalties of the laws. The preservation of public order, the right of discussion, the integrity of courts, and the orderly administration of justice must continue forever the rock of safety upon which our Government securely rests."

In accordance with the act of Congress providing for an appropriate national celebration in the year 1900 of the establishment of the seat of Government in the District of Columbia, I have appointed a committee, consisting of the governors of all the States and Territories of the United States, who have been invited to assemble in the city of Washington on the 21st of December, 1899, which, with the committees of the Congress and the District of Columbia, are charged with the proper conduct of this celebration.



Congress at its last session appropriated five thousand dollars "to enable the Chief of Engineers of the Army to continue the examination of the subject and to make or secure designs, calculations, and estimates for a memorial bridge from the most convenient point of the Naval Observatory grounds, or adjacent thereto, across the Potomac River to the most convenient point of the Arlington estate property." In accordance with the provisions of this act the Chief of Engineers has selected four eminent bridge engineers to submit competitive designs for a bridge combining the elements of strength and durability and such architectural embellishment and ornamentation as will fitly apply to the dedication, "A memorial to American patriotism." The designs are now being prepared, and as soon as completed will be submitted to the Congress by the Secretary of War. The proposed bridge would be a convenience to all the people from every part of the country who visit the national cemetery, an ornament to the Capital of the Nation, and forever stand as a monument to American patriotism. I do not doubt that Congress will give to the enterprise still further proof of its favor and approval.

The Executive order of May 6, 1896, extending the limits of the classified service, brought within the operation of the civil-service law and rules nearly all of the executive civil service not previously classified.

Some of the inclusions were found wholly illogical and unsuited to the work of the several Departments. The application of the rules to many of the places so included was found to result in friction and embarrassment. After long and very careful consideration it became evident to the heads of the Departments, responsible for their efficiency, that in order to remove these difficulties and promote an efficient and harmonious administration certain amendments were necessary. These amendments were promulgated by me in Executive order dated May 29, 1899.

The principal purpose of the order was to except from competitive examination certain places involving fiduciary responsibilities or duties of a strictly confidential, scientific, or executive character which it was thought might better be filled either by noncompetitive examination, or in the discretion of the appointing officer, than by open competition. These places were comparatively few in number. The order provides for the filling of a much larger number of places, mainly in the outside service of the War Department, by what is known as the registration system, under regulations to be approved

by the President, similar to those which have produced such admirable results in the navy-yard service.

All of the amendments had for their main object a more efficient and satisfactory administration of the system of appointments established by the civil-service law. The results attained show that under their operation the public service has improved and that the civil-service system is relieved of many objectionable features which heretofore subjected it to just criticism and the administrative officers to the charge of unbusinesslike methods in the conduct of public affairs. It is believed that the merit system has been greatly strengthened and its permanence assured. It will be my constant aim in the administration of government in our new possessions to make fitness, character, and merit essential to appointment to office, and to give to the capable and deserving inhabitants preference in appointments.

The 14th of December will be the One Hundredth Anniversary of the death of Washington. For a hundred years the Republic has had the priceless advantage of the lofty standard of character and conduct which he bequeathed to the American people. It is an inheritance which time, instead of wasting, continually increases and enriches. We may justly hope that in the years to come the benignant influence of the Father of his Country may be even more potent for good than in the century which is drawing to a close. I have been glad to learn that in many parts of the country the people will fittingly observe this historic anniversary.

Presented to this Congress are great opportunities. With them come great responsibilities. The power confided to us increases the weight of our obligations to the people, and we must be profoundly sensible of them as we contemplate the new and grave problems which confront us. Aiming only at the public good, we can not err. A right interpretation of the people's will and of duty can not fail to insure wise measures for the welfare of the islands which have come under the authority of the United States, and inure to the common interest and lasting honor of our country. Never has this Nation had more abundant cause than during the past year for thankfulness to God for manifold blessings and mercies, for which we make reverent acknowledgment.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,  
*December 5, 1899.*



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621	Same to same.....	Aug. 14	Status of Haitians, descendants of emigrants from the United States. Reports impressment in Haitian army of two men claiming United States citizenship, and incloses correspondence in relation to.	396
622	Same to same.....	....do....	Same subject. Requests instructions as to issuing certificate of United States citizenship.	398
623	Same to same.....	....do....	"Asylum" in legation at Port au Prince. Reports at length on case of Duvivier, etc.	383
624	Same to same.....	....do....	Same subject. Discusses right of asylum as understood in Haiti, and requests instructions.	384
	Same to same (telegram)...	Aug. 16	Same subject. Haitian Government decrees all refugees in legations to leave country by first steamer.	385
	Mr. Adee to Mr. Powell (telegram).	Aug. 17	Same subject. Haitian Government has right to expel its own citizens. He may shelter those under reasonable apprehension of lawless violence.	386
362	Same to same.....	....do....	Same subject. Acknowledges his No. 613, which reports end of Duvivier incident.	386
629	Mr. Powell to Mr. Hay.....	Aug. 18	Same subject. Explains causes of decree of expulsion of refugees in legations.	386

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No.	From and to whom.	Date.	Subject.	Page.
640	Mr. Powell to Mr. Hay.....	1899. Aug. 29	Foreigners in Haiti required to procure license to do business. Holds that required application is in violation of treaty rights.	403
363	Mr. Hay to Mr. Powell.....	Sept. 1	"Asylum" in legation at Port au Prince. Department's No. 358 and telegram of Aug. 17 give all necessary directions.	388
364	Same to same.....	do ..	"Asylum" in legation at Port au Prince. States Department's attitude in matter of so-called asylum.	389
365	Same to same.....	Sept. 2	Same subject. Emphasizes fact that Haitian Government has the right to expel its citizens.	389
644	Mr. Powell to Mr. Hay.....	do ..	Status of Haitians, descendants of emigrants from the United States. Reports in regard to case of impressment of two men claiming American citizenship.	399
366	Mr. Hay to Mr. Powell.....	do ..	Same subject. Further investigation and report by him are awaited.	400
648	Mr. Powell to Mr. Hay.....	Sept. 5	"Asylum" in legation at Port au Prince. Reports delay in embarking refugees in legation.	390
368	Mr. Adée to Mr. Terres .....	Sept. 15	Same subject. Explains why it is not minister's duty to participate in execution of the order of expulsion.	392
369	Same to same .....	Sept. 16	Status of Haitians, descendants of emigrants from United States. Report is awaited.	401
372	Mr. Hill to Mr. Terres .....	Sept. 21	Foreigners in Haiti required to procure license to do business. This Government is not justified in contesting Haitian requirement that American citizens make application for licenses to conduct business.	405
655	Mr. Powell to Mr. Hay.....	Nov. 11	Consular immunities. Invasion by Haitian authorities of residence of United States deputy consul-general. Incloses correspondence in relation to.	405
659	Same to same .....	Nov. 14	"Asylum" in legation at Port au Prince. Right of asylum is recognized by Haitians and generally exercised by other legations. Argues that no set rules can be laid down, except that it be granted to members of the Government only in times of revolution.	393
660	Same to same .....	Nov. 15	Same subject. Action criticised in Department's No. 363 was made necessary by circumstances, etc.	394
661	Same to same .....	Nov. 16	Status of Haitians, descendants of emigrants from United States. Incloses circular and law granting land to such as would emigrate with the intention to become citizens.	401
378	Mr. Hay to Mr. Powell.....	Nov. 27	Consular immunities. Invasion by Haitian authorities of residence of United States deputy consul-general. Protest is approved as proper and timely. Any injury done to property should be made good.	407
382	Same to same .....	Dec. 1	Status of Haitians, descendants of emigrants from United States. When land grant was accepted settlers renounced American citizenship. Individual cases should be tested by this rule.	403
384	Same to same .....	Dec. 6	"Asylum" in legation at Port au Prince. Circumstances of each case should be brought to attention of the Department.	396
385	Same to same .....	Dec. 7	Same subject. Refers to his No. 660. Department is willing to let matter rest upon its No. 368.	396

## ITALY.

426	Mr. Draper to Mr. Hay .....	1899. Apr. 13	Bequest to Methodist Church in Italy. Incloses correspondence in relation to.	408
455	Same to same .....	June 7	Abolition of Italian immigration bureau at Ellis Island. Objections to testimony of Commissioner-General Powderly. Incloses note from Italian foreign office.	411
	Count Vinci to Mr. Hay.....	June 20	Same subject. In relation to objections above noted.	413
492	Mr. Hay to Count Vinci.....	June 23	Same subject. Above note has been submitted to Treasury Department.	414
471	Mr. Iddings to Mr. Hay .....	July 6	Bequest to Methodist Church in Italy. Incloses note from minister of foreign affairs in relation to.	410
	Count Vinci to Mr. Hay.....	July 22	Lynching of persons of Italian origin at Tallulah, La. Desires Department to secure information in relation to.	440
	Mr. Hay to Governor Foster, of Louisiana (telegram).	do ..	Same subject. Requests report in relation to....	440

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No.	From and to whom.	Date.	Subject.	Page.
		1899.		
471	Governor Foster to Mr. Hay (telegram).	July 22	Same subject. Above request will receive immediate attention.	441
496	Mr. Hay to Count Vinci....	July 24	Lynching of persons of Italian origin at Tallulah, La. Request for information in relation to, will receive attention. Embassy at Rome instructed to assure Italian Government that legal steps to secure justice will be taken. Expresses President's regret at occurrence.	441
	Mr. Hay to Mr. Draper (telegram).	....do....	Same subject. Instruction as indicated above....	441
	Count Vinci to Mr. Hay....	July 25	Same subject. Has learned that grand jury of Madison Parish has concluded that it is wholly unable to discover names of perpetrators of. Asks that United States take measures to the end that demands of justice may be complied with.	442
	Mr. Hay to Governor Foster (telegram).	....do....	Same subject. Communicates substance of above note and reminds him of treaty rights of Italian subjects.	442
	Governor Foster to Mr. Hay (telegram).	....do....	Same subject. Will forward report of authorities of Madison Parish when obtained.	442
497	Mr. Hay to Count Vinci....	July 26	Same subject. Governor of Louisiana has been requested for information.	443
	Mr. Iddings to Mr. Hay (telegram).	....do....	Same subject. Has communicated Department's telegram of 24th instant to Italian minister of foreign affairs.	443
475	Same to same .....	....do....	Same subject. Confirms above telegram.....	443
498	Mr. Hay to Count Vinci....	July 27	Same subject. Quotes telegraphic report from Governor Foster.	444
	Mr. Hay to Governor Foster (telegram).	....do....	Same subject. Thanks for telegram mentioned above.	444
	Same to same .....	....do....	Same subject. Requests that recognition be accorded Marquis Camillo Romano as gerant of Italian consulate at New Orleans.	444
477	Mr. Iddings to Mr. Hay....	July 29	Same subject. Incloses newspaper articles in relation to.	445
	Count Vinci to Mr. Hay ....	Aug. 1	Same subject. Acting consul at New Orleans has ascertained that the five men were all Italian subjects, and that three of them were taken from the jail and had no part in the trouble which led to. Full justice is expected.	446
	Mr. Adeo to Governor Foster (telegram).	Aug. 2	Same subject. Substance of above note. Desirable that he send evidence that some of the men were citizens of the United States.	447
	Governor Foster to Mr. Adeo (telegram).	....do....	Same subject. Will forward statement of sheriff of Madison as soon as received.	447
500	Mr. Adeo to Count Vinci....	....do....	Same subject. Substance of above telegram.....	447
	Count Vinci to Mr. Adeo....	Aug. 3	Same subject. Acknowledges above.....	448
	Governor Foster to Mr. Hay.	....do....	Same subject. Recognition of Marquis Romano as acting consul.	448
	Mr. Adeo to Governor Foster.	Aug. 4	Same subject. Incloses Italian note of 2d instant. Is gratified that Louisiana will employ means to visit justice upon perpetrators of.	449
	Count Vinci to Mr. Adeo ...	Aug. 5	Same subject. Asks if his note had been communicated to governor of Louisiana.	449
	Mr. Adeo to Count Vinci....	....do....	Same subject. Replies to above in affirmative...	450
	Governor Foster to Mr. Hay.	....do....	Same subject. Incloses official record showing that three of the lynched Italians were naturalized American citizens.	450
	Count Vinci to Mr. Adeo ...	Aug. 8	Same subject. Transmits communication from Italian acting consul at New Orleans, together with documentary evidence showing political status of men lynched.	452
502	Mr. Adeo to Count Vinci ...	Aug. 9	Same subject. Report and evidence above referred to will be considered, together with governor's report when received. In three of the cases, record seems to be that of a competent court.	455
	Mr. Adeo to Governor Foster.	....do....	Same subject. Acknowledges his 5th instant and inclosures.	455
	Same to same .....	Aug. 11	Same subject. Communicates report referred to in Italian note of 8th instant, and requests certain details of naturalization of lynched men.	456
504	Mr. Adeo to Count Vinci ...	Aug. 14	Abolition of Italian immigration bureau at Ellis Island. Gives substance of Treasury's reply to Italian note of June 20, setting forth grounds upon which said bureau has been found wanting.	414
	Count Vinci to Mr. Adeo ...	Aug. 20	Lynching of persons of Italian origin at Tallulah, La. Naturalization of the three brothers Difatta does not appear, from documents submitted with Department's 9th instant, to have been in accordance with statutes of United States.	457

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No.	From and to whom.	Date.	Subject.	Page.
513	Mr. Hay to Count Vinci ....	1899. Sept. 1	Lynching of persons of Italian origin at Tallulah, La. Reply to above note. The making and recording of the declaration and judgment of court were regular and in conformity with law, which is sufficient to prove naturalization of parties in question.	458
	Mr. Adeë to Baron Fava....	Sept. 11	Same subject. Governor of Louisiana has been telegraphed in regard to progress of investigation. Alien residents may sue United States citizens in circuit courts of United States.	459
	Mr. Adeë to Governor Foster (telegram).	....do....	Same subject. Inquires in regard to progress of investigation.	460
	Governor Foster to Mr. Hay (telegram).	Sept. 13	Same subject. Report of judge and district attorney forwarded to-day.	460
	Mr. Adeë to Baron Fava.....	....do....	Same subject. Substance of above telegram.....	460
	Baron Fava to Mr. Adeë.....	Sept. 14	Same subject. Acknowledges above and asks if guilty parties have been found and arrested.	461
	Mr. Adeë to Baron Fava.....	....do....	Same subject. Telegram from governor of Louisiana is silent as to arrest of guilty parties.	461
	Governor Foster to Mr. Hay.....	....do....	Same subject. Incloses report of sheriff, with indorsement of judge and district attorney.	461
	Baron Fava to Mr. Adeë (telegram).	Sept. 19	Same subject. Desires information about report from Louisiana.	463
	Mr. Adeë to Baron Fava (telegram).	Sept. 20	Same subject. Substance of report sent by governor of Louisiana. A special agent of the Government will be sent to investigate.	463
	Baron Fava to Mr. Adeë (telegram).	Sept. 21	Same subject. Desires departure of special agent hastened. Asks when next grand jury will meet.	463
	Mr. Hill to Baron Fava (telegram).	....do....	Same subject. Has asked governor of Louisiana by telegraph when next grand jury will meet.	464
	Mr. Adeë to Baron Fava.....	....do....	Same subject. States functions of special agent to be sent by United States Government to Louisiana.	464
	Baron Fava to Mr. Hill (telegram).	Sept. 23	Same subject. Asks for report of governor of Louisiana, with inclosures.	464
	Mr. Hill to Baron Fava (telegram).	Sept. 25	Same subject. Department awaiting additional information before communicating particulars.	464
	Same to same (telegram)....	Sept. 26	Same subject. Next regular term of grand jury in Madison Parish is in January, but it is intention to call special term before then.	465
	Baron Fava to Mr. Hill (telegram).	Sept. 29	Same subject. Asks if it is from special agent that Department is awaiting additional information referred to in telegram of 25th instant.	465
	Mr. Hill to Baron Fava (telegram).	Sept. 30	Same subject. Answers above in affirmative.....	465
	Baron Fava to Mr. Hay.....	Oct. 9	Same subject. Acknowledges information in regard to meeting of grand jury.	465
	Same to same.....	....do....	Same subject. Acknowledges communications in regard to sending a special agent to Louisiana.	466
	Same to same.....	Oct. 23	Abolition of Italian immigration bureau at Ellis Island. Requests copy of testimony of Signor Rossi before the Industrial Commission in New York.	415
	Same to same .....	Oct. 31	Same subject. Takes up seriatim and disputes statements of Treasury in Department's note of Aug. 14 as to the shortcomings of the bureau. Incloses various documents, to be returned to the embassy, and expresses great interest of his Government in the institution.	415
524	Mr. Hay to Baron Fava ....	Nov. 2	Same subject. Incloses proof sheets of Signor Rossi's testimony.	424
	Baron Fava to Mr. Hay ....	Nov. 4	Same subject. Questions of Chairman Farquhar, of the Industrial Commission, in document inclosed with above note, reflect on the integrity of Italian officials. If these charges are supported by the evidence, the guilty officials will be severely punished; if not, Mr. Farquhar should be earnestly admonished.	425
528	Mr. Hay to Baron Fava ....	Nov. 15	Same subject. His note of Oct. 31 has been referred to Treasury.	425
434	Mr. Hay to Mr. Draper.....	Nov. 17	American commercial rights in China. Sets forth efforts of United States to secure a declaration in favor of "open-door" policy, and instructs him to invite cooperation of Italian Government.	136
530	Mr. Hay to Baron Fava ....	Nov. 21	Abolition of Italian immigration bureau at Ellis Island. While Department has no control over legislative commissions, his note of Nov. 4 was communicated to the Industrial Commission; the objectionable questions of its chairman have been expunged from its records, which will contain no unsupported reflections upon the Italian Government.	426

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No.	From and to whom.	Date.	Subject.	Page.
	Baron Fava to Mr. Hay.....	1899. Nov. 25	Abolition of Italian immigration bureau at Ellis Island. Protest against closing of the bureau without consultation with embassy. Hopes order will be suspended.	426
533	Mr. Hay to Baron Fava.....	Nov. 27	Same subject. Treasury Department has decided to close the bureau on Jan. 1, 1900. Quotes from Treasury letter giving reasons for its action.	427
	Baron Fava to Mr. Hay.....	Nov. 29	Same subject. Explanations in above note do not allay the painful impressions caused by the sudden suppression of the bureau. Discussion of improvements to be introduced ought to have preceded such action.	427
	Same to same.....	Nov. 30	Same subject. He is instructed to express painful surprise of his Government and insist upon a suspension of the order.	429
	Same to same.....	do	Same subject. Explanations as to objectionable questions of chairman of the Industrial Commission have been forwarded to his Government. Submits that, under the circumstances, said chairman may be responsible to the Federal Government for his action.	429
531	Mr. Draper to Mr. Hay.....	Dec. 1	Same subject. Reports interview with Italian minister of foreign affairs in regard to.	430
534	Same to same.....	do	Same subject. Minister of foreign affairs regrets closing of bureau.	431
	Baron Fava to Mr. Hay.....	Dec. 2	Same subject. Requests some assurance that a modus vivendi removing present unfounded objections will be acceptable to United States Government.	431
536	Mr. Hay to Baron Fava.....	Dec. 4	Same subject. United States Government will not reconsider its decision.	433
538	Mr. Draper to Mr. Hay.....	Dec. 7	Lynching of persons of Italian origin at Tallulah, La. Reference to, in President's annual message is gratifying to Italian Government.	466
539	Same to same .....	Dec. 8	Abolition of Italian immigration bureau at Ellis Island. Incloses note from Italian minister for foreign affairs urgently requesting delay in carrying out order for closing.	433
	Mr. Hay to Mr. Draper (telegram).	do	Same subject. Ellis Island bureau will be discontinued Jan. 1, 1900.	434
538	Mr. Hay to Baron Fava.....	do	Same subject. Latest notes transmitted to Treasury. Subject will not be reopened.	435
	Mr. Draper to Mr. Hay (telegram).	Dec. 9	Same subject. Minister for foreign affairs expresses regret, and will instruct Baron Fava in matter.	435
541	Same to same .....	do	Same subject. Confirms telegrams in regard to.	435
	Baron Fava to Mr. Adeo.....	Dec. 14	Same subject. Submits proposition that delegate of Italian consul-general meet immigrants at barge office, etc.	435
	Baron Fava to Mr. Hill.....	Dec. 21	Same subject. Requests reply to above.....	436
	Baron Fava to Mr. Hay.....	do	Same subject. Renews above proposition .....	437
	Mr. Hill to Baron Fava (telegram).	Dec. 22	Same subject. His proposition has been submitted to Treasury Department.	437
545	Mr. Hay to Baron Fava.....	Dec. 26	Same subject. Secretary of the Treasury has promised reply before Jan. 1, and intends to extend to Italian representatives all privileges granted to any others.	438
	Baron Fava to Mr. Hay ....	1900. Jan. 7	Same subject. Asks to be precisely informed of the nature and scope of facilities offered Italian representative at Ellis Island.	438
	Visconti Venosta (Italian minister of foreign affairs) to Mr. Draper.	Jan. 7	American commercial rights in China. Italy adheres to proposed "open-door" policy.	138
549	Mr. Hay to Baron Fava ....	Jan. 20	Abolition of Italian immigration bureau at Ellis Island. Treasury must postpone arrangements for persons who wish to meet immigrants until new buildings are completed.	439
	Baron Fava to Mr. Hay ....	Jan. 21	Same subject. Thanks for above information ...	439
	Mr. Hay to Mr. Draper.....	Mar. 20	American commercial rights in China. Incloses for delivery to the minister for foreign affairs replies of interested powers to the United States proposition for an "open-door" policy, with instructions to inform him that Italy's assent is considered as final and definitive, and to express President's sincere gratification.	142

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223	Mr. Hay to Mr. Herod .....	Apr. 25	Same subject. Privileges of the treaty between France and Japan should be claimed for American citizens under Articles II and XIV of the United States treaty.	468
310	Mr. Buck to Mr. Hay .....	June 17	Same subject. Incloses imperial ordinance.....	468
323	Same to same .....	July 7	Same subject. Incloses rescripts and instructions issued by Emperor and ministers of state in relation to.	469
325	Same to same .....	July 11	Same subject. Incloses notification to United States citizens in Japan, issued by him, in relation to.	476
326	Same to same .....	July 12	Same subject. Reports attitude of Government and press.	477
329	Same to same .....	July 15	Same subject. Forwards rescript of Emperor declaring certain Japanese ports open to foreign commerce.	477
	Mr. Hay to Mr. Buck (telegram).	July 25	Landing at Japanese ports for pasture and rest of United States army horses bound for the Philippines. Instruction to request permission for.	478
	Mr. Adee to Mr. Buck (telegram).	Aug. 2	Same subject. Instruction to press above request.	478
235	Same to same .....	Aug. 3	Same subject. Confirms above telegrams and incloses letter from War Department in relation to.	478
339	Mr. Buck to Mr. Hay .....	.... do ...	Same subject. Japanese Government has no objection to.	479
	Mr. Adee to Mr. Buck (telegram).	Aug. 10	Same subject. Desires permission to land at Kobe.	479
	Mr. Buck to Mr. Adee (telegram).	Aug. 16	Same subject. Landing horses at Kobe allowed.	479
350	Mr. Buck to Mr. Hay .....	Sept. 7	Assistance to United States transport <i>Morgan City</i> in Japan. Reports particulars in relation to.	480
	Mr. Hay to Mr. Buck (telegram).	.... do ...	Negotiations relative to the laying of a cable between the United States and Japan. Instruction to ascertain if Japanese Government is well disposed toward a distinctive American cable.	481
353	Mr. Buck to Mr. Hay .....	Sept. 18	Same subject. Has laid matter before Japanese Government.	481
257	Mr. Hay to Mr. Buck .....	Oct. 21	Assistance to United States transport <i>Morgan City</i> in Japan. Instruction to express appreciation of this Government.	481
263	Same to same .....	Nov. 13	American commercial rights in China. Sets forth views of United States in regard to an "open-door" policy and instructs him to invite attention and cooperation of Japanese Government.	138
386	Mr. Buck to Mr. Hay .....	Dec. 11	Negotiations relative to the laying of a cable between the United States and Japan. Proposition submitted by the Pacific Cable Co. is approved in principle. Incloses correspondence.	482
	Viscount Aoki (Japanese minister for foreign affairs) to Mr. Buck.	Dec. 26	American commercial rights in China. Assents to proposal of United States provided other powers concerned shall accept the same.	139
	Mr. Hay to Mr. Buck .....	1900. Mar. 20	Same subject. Incloses for delivery to the minister for foreign affairs replies of interested powers to the United States proposition for an "open-door" policy, with instructions to inform him that Japan's assent is considered as final and definitive, and to express President's sincere gratification.	142

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201	Mr. Sands to Mr. Hay .....	Aug. 10	Opening of the port of Peng Yang. Unless otherwise instructed, the legation will not argue the question with the Korean Government, which has been notified that the port was considered open.	488

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213	Mr. Allen to Mr. Hay .....	Nov. 17	Same subject. Diplomatic corps jointly declared port open to foreign trade on same terms as Seoul. Incloses his note to foreign minister in regard to.	490
215	Same to same .....	Dec. 12	Treaty between Korea and China. Incloses translation of.	491
216	Same to same .....	Dec. 22	Same subject. Reports resumption of diplomatic relations between Korea and China.	496

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16	Señor Aspiroz to Mr. Hay ..	1899. May 18	Extradition of Mrs. Mattie D. Rich. Provisional detention requested.	497
12	Mr. Hay to Señor Aspiroz ..	May 20	Same subject. Matter will be given consideration after fulfillment of forms of law.	497
152	Mr. Clayton to Mr. Hay ....	May 22	Boundary commission. Convention between Mexico and Guatemala extending. Incloses decree promulgating.	501
156	Same to same .....	May 23	Treaty between Mexico and Germany for the protection of trade-marks. Incloses decree promulgating.	502
23	Señor Aspiroz to Mr. Hay ..	July 6	Extradition of Mrs. Mattie D. Rich. Formal request for.	498
18	Mr. Hay to Señor Aspiroz ..	July 11	Same subject. Matter receiving consideration of the Department.	498
19	Same to same .....	July 15	Same subject. President has decided to grant. Warrant of surrender inclosed.	498
178	Mr. Hay to Mr. Clayton ....	July 19	Same subject. Is granted with expectation of fair and impartial trial. Indicates wishes of the President in premises and instructs him to communicate them informally to Mexican Government.	499
255	Mr. Clayton to Mr. Hay ....	July 29	Same subject. Reports interview with Mexican minister of foreign affairs in line with above instruction.	500
196	Mr. Adee to Mr. Clayton ...	Aug. 11	Invitation to the President of Mexico to be present at the laying of the corner stone of the United States Government building at Chicago. Instruction to arrange for committee to present.	504
300	Mr. Clayton to Mr. Hay ....	Aug. 24	Extradition of Mrs. Mattie D. Rich. Incloses note from minister of foreign affairs in relation to trial of Mrs. Rich.	500
303	Mr. Clayton to Mr. Hay .....	Aug. 25	Invitation to the President of Mexico to be present at the laying of the corner stone of the United States Government building at Chicago. Committee has been presented to the President, who will request sanction of Congress to accept.	505
213	Mr. Hay to Mr. Clayton .....	Sept. 7	Same subject. Acknowledges above .....	507
335	Mr. Clayton to Mr. Hay .....	Sept. 20	Same subject. Mexican Congress has granted leave, but doubtful whether President will avail himself of it.	507
356	Same to same .....	Sept. 27	Same subject. President will not visit Chicago. Señor Mariscal, minister for foreign affairs, goes as his personal representative. Incloses correspondence.	508
357	Same to same .....	Sept. 28	Same subject. Regrets at inability of President of Mexico to visit Chicago have been presented.	510
363	Same to same .....	Oct. 3	Same subject. Has communicated Señor Mariscal's intended movements to General McKibben, who has been delegated to meet him at boundary.	510

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Mr. Hay to Hon. Andrew D. White et al. delegates on the part of the President of the United States.	1899. Apr. 18	International (Peace) Conference at The Hague. Instructions to delegates.	511
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## NICARAGUA, SALVADOR, AND COSTA RICA.

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	Mr. Hay to Mr. Merry (telegram).	Feb. 10	Same subject. Instructs him in case question affecting American vessels arises.	548
211	Mr. Merry to Mr. Hay .....	do	Same subject. Reports his intention to claim for American vessels the right to enter any port in the occupation of a de facto government.	548
	Mr. Hay to Mr. Merry (telegram).	do	Same subject. <i>Marietta</i> ordered to Greytown, Bluefields.	549
212	Mr. Merry to Mr. Hay .....	Feb. 12	Same subject. Incloses letter from Consular Agent Clancy, Bluefields, and reports progress and prospects of revolutionary movement.	549
	Same to same (telegram) ..	Feb. 15	Same subject. Desires instructions to proceed to capital of Nicaragua.	551
214	Same to same .....	Feb. 16	Same subject. Reports resources of the revolution. He will proceed to Managua. Incloses letter from Nicaraguan minister of foreign affairs urging his visit.	551
215	Same to same .....	do	Same subject. Request of Nicaraguan authorities, received through consul at Managua, that United States war vessel seize steamer of insurgents has been declined by him.	552
	Same to same (telegram) ..	Feb. 26	Same subject. Revolution in Nicaragua appears to be a failure.	553
	Same to same (telegram) ..	Feb. 27	Same subject. Capital of Mosquito Territory captured by Nicaraguan Government. United States and English naval forces landed temporarily.	554
	Same to same (telegram) ..	Feb. 28	Same subject. Surrender of Americans to naval forces. Requests prevention of illegal expedition from New Orleans to Honduras.	554
197	Mr. Hay to Mr. Merry .....	Mar. 3	Same subject. In connection with his No. 215, refers to Foreign Relations, 1885, 211.	554
219	Mr. Merry to Mr. Hay .....	Mar. 5	Same subject. Incloses memorandum upon which his telegrams have been based.	554
	Same to same (telegram) ..	do	Same subject. Revolution Mosquito Territory ended. Nicaragua quiet.	556
220	Same to same .....	Mar. 6	Same subject. All foreigners connected with Mosquito revolt have left, with passports issued by commander of Nicaraguan forces.	556
223	Same to same .....	Mar. 14	Same subject. Action of United States and British war vessels can not and does not give reasonable ground for complaint.	557
204	Mr. Hay to Mr. Merry .....	Mar. 20	Same subject. Incloses correspondence in relation to second payment of duties.	557
206	Same to same .....	Mar. 27	Same subject. Requests list of American citizens implicated in revolt.	559
16	Mr. Lane to Mr. Hay .....	Apr. 2	Same subject. Consul at Bluefields asks for two war vessels. Second payment of duties demanded.	559
	Same to same (telegram) ..	Apr. 5	Same subject. Same tenor as above .....	560
	Mr. Hay to Mr. Merry (telegram).	Apr. 6	Same subject. <i>Detroit</i> ordered to Bluefields .....	560
	Same to same (telegram) ..	do	Same subject. Reappointment of Torres at Bluefields impresses this Government unfavorably.	560

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

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Hay to Mr. Lane (telegram).	1899. Apr. 6	Revolution, and demand of Nicaraguan Government for second payment of customs duties collected by insurgents while in temporary possession of Bluefields. <i>Detroit</i> ordered to Bluefields.	560
211	Mr. Hay to Mr. Merry.....	do	Same subject. Appointment of Francisco Torres as governor of Bluefields. Reviews correspondence in 1897 when the same Torres was removed from the same office, and instructs him to represent against reappointment.	561
	Mr. Merry to Mr. Hay (telegram).	Apr. 7	Same subject. Is leaving for Managua.....	562
17	Mr. Lane to Mr. Hay.....	Apr. 8	Same subject. Reports in regard to demand for second payment of duties and interference with telegrams of consular agent at Bluefields. Incloses correspondence.	562
212	Mr. Hay to Mr. Merry.....	Apr. 11	Same subject. Confirms telegrams of 6th instant. Mr. Lane has been instructed to ask instant permission to send and receive official telegrams, should his telegrams be interfered with.	565
	Mr. Hay to Mr. Lane.....	do	Same subject. Instruction as indicated above...	565
	Mr. Merry to Mr. Hay (telegram).	Apr. 12	Same subject. Is going to Mosquito Territory...	565
235	Mr. Merry to Mr. Hay.....	Apr. 13	Same subject. Confirms telegrams, and comments on situation.	566
22	Mr. Lane to Mr. Hay.....	Apr. 16	Same subject. <i>Detroit</i> arrived at Port Limon 15th instant, and has been telegraphed to proceed to Greytown.	566
217	Mr. Hay to Mr. Merry.....	Apr. 17	Same subject. If duties were voluntarily paid in aid of insurrection, United States will not lend its support; but if by coercion, it will sustain merchants' claim to pay under protest and consider their ultimate rights, whether protest was made or not.	566
	Mr. Hay to Mr. Sorsby (telegram).	do	Same subject. Instruction to claim immunities accorded by treaty to consuls of most favored nation. If none such accorded, Clancy may testify in unofficial capacity.	568
237	Mr. Merry to Mr. Hay.....	Apr. 23	Same subject. Arrival at Bluefields on <i>Detroit</i> reported.	569
	Mr. Merry to Mr. Hay (telegram).	do	Same subject. Suggests refusal of duplicate payment of duties.	569
239	Same to same.....	do	Same subject. Confirms above. Gives proofs of insurgents being in possession of the Government machinery, and cites authorities against second payment of duties.	569
240	Same to same.....	Apr. 24	Same subject. Request that American flag over merchants' stores be hauled down has been declined.	571
241	Same to same.....	do	Same subject. Reports violent utterances of Colonel Torres. Promise that he would soon be recalled has been given.	572
242	Same to same.....	Apr. 26	Same subject. Incloses communication from Bluefields Chamber of Commerce to prove neutrality of American merchants.	573
243	Same to same.....	Apr. 30	Same subject. Incloses agreement with Nicaraguan minister for foreign affairs by which American merchants will pay amount of duties, to be held in trust by British consul until question whether said duties should be again paid is decided by the two Governments.	575
	Mr. Hay to Mr. Merry (telegram).	May 2	Same subject. Refers to Department's No. 217 ..	578
245	Mr. Merry to Mr. Hay.....	May 4	Same subject. Is about to leave for Port Limon on <i>Detroit</i> . Torres will return to Managua when his court-martial is completed. Incloses protest to Torres about delay of official telegrams.	578
	Same to same (telegram)...	May 5	Same subject. Reports arrangement mentioned in his No. 243.	579
	Mr. Hay to Mr. Merry (telegram).	May 6	Same subject. Arrangement approved, subject to determination of law and equity.	579
228	Mr. Hay to Mr. Merry.....	do	Same subject. Delay to official telegrams. Instructs him to bring to attention of Nicaraguan Government.	579
248	Mr. Merry to Mr. Hay.....	May 7	Same subject. British consul has consented to receive amount of duties under agreement with Nicaraguan Government. Incloses correspondence in regard to.	580
230	Mr. Hay to Mr. Merry.....	May 8	Same subject. Approves action in declining to order merchants to haul down United States flag.	582

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

No.	From and to whom.	Date.	Subject.	Page.
251	Mr. Merry to Mr. Hay .....	1899. May 9	Revolution, and demand of Nicaraguan Government for second payment of customs duties collected by insurgents while in temporary possession of Bluefields. Incloses partial list of Americans and other foreigners engaged in the insurrection at Bluefields.	582
252	Same to same.....	do	Same subject. Testimony of Consular Agent Clancy was refused upon approval of legation, and, following example of British consul, Department's telegram of April 17 had not been received.	583
288	Same to same.....	July 25	Same subject. Incloses complete list of Europeans and Americans sent away from Bluefields after the revolt.	583
305	Same to same.....	Aug. 30	Copyright in Costa Rica. Incloses decree to be published establishing international copyright between Costa Rica and United States.	584
310	Same to same.....	Sept. 7	Same subject. Decree above referred to published September 4 as becoming effective on Nov. 1, 1899.	585
266	Mr. Adee to Mr. Merry .....	Sept. 15	Same subject. Decree in his No. 305 can not be taken as a basis for President's proclamation because it limits the operation of the law of June 26, 1896, to Americans residing outside of Costa Rica. The law itself, however, does not, and upon assurance that all Americans will be admitted to the benefits of the law, the proclamation will issue.	585
319	Mr. Merry to Mr. Adee.....	Sept. 27	Same subject. Incloses letter from acting secretary of foreign affairs of Costa Rica, covering points indicated in above instruction.	587
326	Mr. Merry to Mr. Hay.....	Oct. 7	Citizenship of Roberto J. J. Pinto, born in United States of alien parents, now residing in Costa Rica, who asserts he will claim United States citizenship when he becomes of age.	588
23	Mr. Hay to Mr. Calvo .....	Oct. 20	Copyright in Costa Rica. Advises of President's proclamation of 19th instant.	587
277	Mr. Hay to Mr. Merry.....	do	Same subject. Same as above.....	588
	Mr. Calvo to Mr. Hay.....	Oct. 21	Same subject. Acknowledges Department's note of 20th instant.	588
279	Mr. Hay to Mr. Merry.....	Oct. 25	Citizenship of Roberto J. J. Pinto. The young man is entitled to passport and protection as a citizen of the United States.	589

## PERU.

260	Mr. Dudley to Mr. Hay.....	1899. May 24	Marriages between non-Catholics in Peru. Incloses decree in regard to.	590
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## RUSSIA.

48	Mr. Hitchcock to Mr. Sherman.	1898. Mar. 1	Establishment of a direct line of Danish steamers between Russian Baltic ports and the United States. Requests Department's assistance to agent of United Steamship Co. in securing information from Treasury and Agricultural Departments.	591
2	Mr. Sherman to Mr. Hitchcock.	Mar. 25	Same subject. Treasury Department will furnish information on occasion of agent's visit.	592
165	Mr. Hitchcock to Mr. Hay..	Oct. 10	Same subject. Incloses letter from consul at Riga stating that preliminary arrangements have been made for.	592
190	Mr. Peirce to Mr. Hay.....	Nov. 23	Same subject. Incloses letter from consul at Riga in relation to, and reports on.	593
238	Mr. Hitchcock to Mr. Hay..	1899. Jan. 21	Negotiations for an American exposition in Russia. Incloses his note to Russian minister of foreign affairs, advocating.	594
249	Mr. Peirce to Mr. Hay.....	Feb. 13	Same subject. Incloses correspondence with Russian foreign office in regard to.	595
275	Same to same.....	Mar. 15	Same subject. Incloses note from Russian foreign office.	596
30	Mr. Tower to Mr. Hay.....	Apr. 25	Application of M. W. Pipping, a Russian subject, for passports for his minor sons, born in the United States. Has refused to issue. Incloses correspondence.	600
50	Mr. Hay to Mr. Tower.....	May 15	Same subject. Action reported above approved..	603

## RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
82	Mr. Hay to Mr. Tower.....	1899. Sept. 6	American commercial rights in China. Recites assurances already received as to "open door" policy, and instructs to ascertain whether the Russian Government would not be disposed to give them a definite form in a declaration of principles.	140
120	Mr. Peirce to Mr. Hay.....	Oct. 11	Negotiations for an American exposition in Russia. Calls attention to the importance of the subject, and points out vast fields opened in Russia for American products.	597
761	Count Mouravieff (Russian minister of foreign affairs) to Mr. Tower.	Dec. 30	American commercial rights in China. Assent to "open-door" proposition.	141
	Mr. Hay to Mr. Tower.....	1900. Mar. 20	Same subject. Incloses for delivery to the minister for foreign affairs replies of interested powers to the United States proposition for an "open-door" policy, with instructions to inform him that Russia's assent is considered as final and definitive, and to express President's sincere gratification.	142

## SAMOA.

[Correspondence with Germany and Great Britain, relating to Samoan affairs, listed under the respective countries.]

	Mr. Hay to Mr. Tripp.....	1899. Apr. 18	Samoa affairs. Appointment and instructions as commissioner of the United States to Samoan Islands.	615
1	Mr. Tripp to Mr. Hay.....	May 18	Same subject. Preliminary report.....	616
2	Same to same.....	May 19	Same subject. Incloses correspondence with Malietoa, Tanumafili, and Mataafa.	617
3	Same to same.....	May 21	Same subject. Reports interviews with Malietoa and Mataafa.	620
4	Same to same.....	June 16	Same subject. Reports conditions; progress made by commission; incloses correspondence with Malietoa and Mataafa, and disarmament proclamation; proclamation concerning government.	621
5	Same to same.....	July 4	Same subject. Reports conditions, etc.....	631
6	Same to same.....	July 13	Same subject. Further proceedings of commission, etc.	635
	The commission to Mr. Hay.	July 18	Same subject. Submits draft of a modified and amended version of the act of Berlin. Report of work of commission.	636
	Mr. Tripp to Mr. Hay.....	Aug. 7	Same subject. Final report.....	648

## SIAM.

45	Mr. King to Mr. Hay.....	1899. Aug. 9	Arbitration in the matter of the alleged assault upon the United States vice-consul-general, Mr. E. V. Kellett, by soldiers of the Siamese army. Incloses decision of arbitrators.	674
46	Mr. Hill to Mr. King.....	Sept. 27	Same subject. Concurs in recommendation that matter be allowed to stand as it is.	675
53	Mr. King to Mr. Hay.....	Dec. 21	Extraterritorial jurisdiction. Attempt of Siamese Government to ignore treaty rights of United States citizens. Incloses correspondence with Siamese foreign office in relation to.	676
52	Mr. Hay to Mr. King.....	1900. Feb. 17	Same subject. Approves action reported above..	678

## SPAIN.

1	Mr. Hay to Mr. Storer.....	1899. Apr. 18	Reestablishment of diplomatic relations with Spain. Appointment and instructions as minister. Credence from the President to the Queen Regent inclosed.	679
	The Duke de Arcos to Mr. Hay.	June 1	Reception of Spanish minister to United States. Incloses his letter of credence.	680
1	Mr. Hay to the Duke de Arcos.	June 2	Same subject. President will receive him.....	681

## SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1899.		
	The President to the Spanish minister.	.....	Reception of Spanish minister to United States. Reply to address of minister.	682
	Mr. Hay to the Duke de Arcos.	June 14	Return to Spain of Spanish prisoners of Filipinos. Secretary of War has instructed General Otis to cooperate with Spanish agents.	682
3	Mr. Storer to Mr. Hay.....	June 17	Reestablishment of diplomatic relations with Spain. Reports his reception by Queen Regent.	680
17	Same to same .....	June 27	Return to Spain of Spanish prisoners of Filipinos. Asks to be instructed as to intentions of United States in regard to.	682
17	Same to same .....	....do....	Release of Cuban political prisoners in Spain. Asks instructions as to opening correspondence with Spanish Government in regard to.	693
24	Mr. Hay to Mr. Storer.....	July 7	Same subject. Incloses list of Cuban prisoners, and instructs to bring matter to attention of Spanish Government.	693
25	Mr. Storer to Mr. Hay.....	July 10	Return to Spain of Spanish prisoners of Filipinos. Recommends attention of United States Government to.	683
29	Mr. Hay to Mr. Storer.....	July 17	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. Instructs to bring matter to attention of Spanish Government.	708
30	Same to same.....	....do....	Return to Spain of Spanish prisoners of Filipinos. This Government is preparing to fulfill its engagement under article 6 of the treaty of peace.	684
30	Same to same.....	....do....	Release of Cuban political prisoners in Spain. Instructs to insist upon.	695
33	Mr. Storer to Mr. Hay.....	July 19	Same subject. General rather than specific action seems advisable. Incloses list of prisoners who have addressed legation.	696
	The Duke de Arcos to Mr. Hay.	July 20	Registration under treaty of peace of Spanish subjects in ceded and relinquished territory. Suggests that Spanish consuls may receive declarations.	714
	Same to same.....	July 22	Return to Spain of Spanish prisoners of Filipinos. Requests permission to send cipher telegrams to Aguinaldo.	685
	Mr. Hay to the Duke de Arcos.	July 25	Same subject. Above request has been communicated to Secretary of War.	686
37	Mr. Storer to Mr. Hay.....	July 26	Release of Cuban political prisoners in Spain. In regard to transportation of.	697
	Mr. Hay to the Duke de Arcos.	July 28	Return to Spain of Spanish prisoners of Filipinos. Spanish agents in Manila given full liberty to negotiate with insurgents.	686
	Mr. Adee to Mr. Storer (telegram).	Aug. 3	Release of Cuban political prisoners in Spain. Instructs to ask release of certain enumerated prisoners.	698
44	Same to same.....	....do....	Same subject. Instructs in detail in regard to....	698
41	Mr. Storer to Mr. Hay.....	Aug. 4	Same subject. Reports in detail in regard to....	699
	Mr. Adee to Mr. Storer (telegram).	....do....	Same subject. Instructs to present certain names.	700
42	Mr. Storer to Mr. Hay.....	....do....	Return to Spain of Spanish prisoners of Filipinos. Reports interview with Spanish minister of foreign affairs, and happy effect of United States granting Spain permission for cipher communications with insurgents.	686
45B	Mr. Sickles to Mr. Hay.....	Aug. 7	Release of Cuban political prisoners in Spain. Reports in regard to.	701
46	Same to same .....	Aug. 9	Same subject. Reports in regard to .....	701
31	Mr. Adee to the Duke de Arcos.	....do....	Registration under treaty of peace of Spanish subjects in ceded and relinquished territory. Incloses War Department order which provides facilities for.	714
	The Duke de Arcos to Mr. Hay.	Aug. 11	Same subject. Desires that lists of registrations be sent to Spanish consulate-general at Habana, and that facilities be provided for registration in Porto Rico and the Philippines.	715
52	Mr. Sickles to Mr. Hay.....	Aug. 14	Release of Cuban political prisoners in Spain. Reports on, and incloses note from minister of foreign affairs.	701
58	Mr. Sickles to Mr. Adee.....	Aug. 21	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. Incloses note from minister of state in regard to.	709
59	Mr. Adee to Mr. Storer.....	Aug. 22	Release of Cuban political prisoners in Spain. Incloses dispatch from consul at Gibraltar in regard to destitute released prisoners at that port, and instructs to request release of certain.	702
65	Mr. Sickles to Mr. Hay.....	Aug. 24	Same subject. Reports interview with minister of state in regard to.	704
35	Mr. Adee to the Duke de Arcos.	Aug. 26	Registration under treaty of peace of Spanish subjects in ceded and relinquished territory. Authorities instructed in accordance with his request of 11th instant.	716

## SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
65	Mr. Hay to Mr. Sickles .....	1899. Aug. 30	Release of Cuban political prisoners in Spain. Instructs to continue efforts.	705
75	Mr. Sickles to Mr. Hay .....	Sept. 9	Same subject. Reports action in certain cases...	705
	The Duke de Arcos to Mr. Hay.	Sept. 11	Return to Spain of Spanish prisoners of Filipinos. Desires permission for Spanish commissioner to go after prisoners.	688
81	Mr. Sickles to Mr. Hay .....	Sept. 13	Release of Cuban political prisoners in Spain. Reports on certain cases and incloses correspondence.	706
	Mr. Adee to the Duke de Arcos.	Sept. 16	Return to Spain of Spanish prisoners of Filipinos. His note of 11th instant has been referred to the Secretary of War.	688
	Same to same (telegram)....	Sept. 18	Same subject. Secretary of War has telegraphed General Otis to give every facility to Spanish commissioners.	688
	Same to same.....	.....do ...	Same subject. Confirms above telegram.....	689
	Same to same.....	.....do ...	Same subject. Details as to return of certain of the prisoners.	689
88	Mr. Sickles to Mr. Hay .....	Sept. 19	Release of Cuban political prisoners in Spain. Incloses note from Spanish ministry of foreign affairs in regard to.	708
	The Duke de Arcos to Mr. Adee.	Sept. 22	Return to Spain of Spanish prisoners of Filipinos. Asks that thanks be conveyed to War Department.	689
84	Mr. Adee to Mr. Storer .....	Oct. 12	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. United States does not understand that Spanish Government repudiates its obligation.	710
121	Mr. Storer to Mr. Hay .....	Nov. 17	Return to Spain of Spanish prisoners of Filipinos. Spanish Government embarrassed by refusal of permission to allow vessel to fly Spanish flag.	689
123	Mr. Storer to Mr. Hay .....	.....do ...	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. Council of ministers has decided upon.	710
	Mr. Hay to Mr. Storer (telegram).	Nov. 18	Same subject. Would be agreeable to have place and manner of payment as heretofore.	711
	Same to same (telegram)....	Nov. 21	Return to Spain of Spanish prisoners of Filipinos. Delivery of prisoners to vessel flying Geneva Red Cross flag would be unobjectionable.	690
128	Mr. Storer to Mr. Hay.....	Nov. 22	Same subject. Above telegram communicated to Spanish minister of state.	690
129	Same to same.....	Nov. 25	Same subject. Incloses letter of thanks from minister of state for above solution.	691
135	Same to same.....	Dec. 5	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. Incloses note from Spanish ministry of state in regard to.	711
	Memorandum of interview between Spanish minister and the Secretary of State.	Dec. 7	Registration under treaty of peace of Spanish subjects in ceded and relinquished territory. Spanish minister renews request for extension of time for.	716
108	Mr. Hay to Mr. Storer .....	Dec. 8	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. Place and manner of payment suggested are through Spanish legation at Washington.	712
57	Mr. Hay to the Duke de Arcos.	Dec. 9	Registration under treaty of peace of Spanish subjects in ceded and relinquished territory. It is thought not to be in power of the Executive to extend time for.	717
	The Duke de Arcos to Mr. Hay.	Dec. 13	Same subject. Argues that spirit of treaty was to grant 1 full year for, and that, owing to delay in Cuba and Porto Rico, and condition of affairs in Philippines, if extension is not granted, Spanish subjects' treaty rights will be curtailed.	717
	The Duke de Arcos to Mr. Hay.	Dec. 20	Payment of interest (1898 and 1899) on Spanish indemnity bonds of 1834. Incloses checks to cover.	712
113	Mr. Hay to Mr. Storer .....	.....do ...	Same subject. United States appreciates friendly spirit of Government of Spain in arrangement of.	713
	Same to same (telegram)....	Dec. 21	Same subject. Informs him of payment by Spanish minister.	713
	Mr. Hay to the Duke de Arcos.	.....do ...	Same subject. Acknowledges receipt of .....	713
65	Same to same.....	Dec. 28	Registration under treaty of peace of Spanish subjects in ceded and relinquished territory. In Cuba and Porto Rico not only facilitates stipulated by treaty of peace, but additional ones gratuitously provided by the War Department, have been afforded, and extension of time is uncalled for. Conditions in Philippines have been different, and Department is willing to sign a supplementary convention extending time for 6 months from April 1, 1900.	719

## SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
68	Mr. Hay to the Duke de Arcos.	1900. Jan. 17	Return to Spain of Spanish prisoners of Filipinos. Liberation of 200 has been reported.	691
69	Same to same.....	Jan. 24	Same subject. Liberation of certain reported....	692
73	Same to same.....	Jan. 27	Same subject. Same tenor as above .....	692
80	Same to same.....	Mar. 7	Same subject. Same tenor as above .....	692
	Same to same.....	Mar. 13	Same subject. Same tenor as above .....	692
82	Same to same.....	Mar. 16	Same subject. Same tenor as above .....	692
	Mr. Hill to the Duke de Arcos.	Apr. 17	Same subject. Same tenor as above .....	693

## SWEDEN AND NORWAY.

51	Mr. Hay to Mr. Thomas....	1899. Mar. 27	Inspection certificates for meats imported into Sweden and Norway. Incloses letter from Secretary of Agriculture in regard to more rigid control of imported meats, and instructs to make appropriate representations.	721
54	Same to same .....	May 18	Same subject. Incloses correspondence in regard to, and instructs to endeavor to have meat-inspection stamps of United States accepted without authentication by Swedish-Norwegian consul.	722
85	Mr. Thomas to Mr. Hay....	May 30	Same subject. Has made representation above indicated.	723
55	Mr. Hay to Mr. Thomas....	June 5	Same subject. Incloses dispatch from consul at Christiania stating that regulations have been modified.	724
56	Same to same .....	June 7	Same subject. Incloses dispatch from consul at Christiania in regard to.	725
58	Same to same .....	June 15	Same subject. Incloses letter from Secretary of Agriculture in relation to exportation of horse meat from United States.	727
88	Mr. Thomas to Mr. Hay....	June 20	Same subject. Is giving subject his attention...	728
91	Same to same .....	June 27	Same subject. Will arrange for an early consultation with consul at Christiania.	728
64	Mr. Adeo to Mr. Thomas...	Aug. 5	Same subject. Incloses dispatch from consul at Gothenburg, quotes from letter from Secretary of Agriculture protesting against assumption of Swedish authorities that United States inspectors are not veterinarians, and instructs to inform Swedish Government that inspection in United States is thorough and competent.	728
100	Mr. Thomas to Mr. Hay....	Aug. 28	Same subject. Before foregoing requirement that inspection certificate be authenticated by Swedish and Norwegian consuls, Swedish Government wishes to be furnished with list of United States inspectors, and information as to whether they are veterinary surgeons. Incloses correspondence in regard to.	730
102	Same to same .....	Sept. 5	Same subject. Incloses note to minister of foreign affairs in accordance with Department's No. 64.	733
107	Same to same .....	Oct. 3	Same subject. Competent authorities will be advised by minister of interior that United States inspectors are veterinarians.	734
66	Mr. Hill to Mr. Thomas....	Oct. 14	Same subject. Incloses letter from Secretary of Agriculture stating that it will not be practicable to furnish list of United States inspectors and facsimiles of their signatures.	734
119	Mr. Thomas to Mr. Hay....	Oct. 28	Same subject. Incloses note to minister of foreign affairs in accordance with above instruction.	735
69	Mr. Hay to Mr. Thomas....	Nov. 23	Same subject. Quotes remarks of Secretary of Agriculture in regard to.	737
130	Mr. Thomas to Mr. Hay....	Dec. 30	Same subject. Incloses note to minister of foreign affairs urging acceptance of United States inspection certificates.	737
145	Same to same .....	1900 Apr. 30	Same subject. Certificates of inspection of Agricultural Department will be recognized.	738

## SWITZERLAND.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Pioda to Mr. Day .....	1898. June 29	Treaty (1850) between the United States and Switzerland. Denunciation of Articles VIII to XII. Demands that reciprocity agreement with France be immediately applied to Swiss imports into United States.	740
179	Mr. Day to Mr. Pioda .....	July 29	Same subject. Above demand is surprising to Department, whose position on the "most-favored-nation" clause is well known and generally accepted. United States is ready to negotiate special arrangement with Switzerland.	740
	Mr. Pioda to Mr. Adee .....	Sept. 26	Same subject. Insists on position taken in his note of June 29, and discusses Articles VIII to XII.	742
201	Mr. Hay to Mr. Pioda .....	Nov. 21	Same subject. Explains why demand in note of Swiss minister of Sept. 29 can not be assented to.	746
127	Mr. Hay to Mr. Du Bois.....	Nov. 28	Same subject. Incloses Department's note of 21st instant to Swiss minister.	748
204	Mr. Hay to Mr. Deucher ....	Dec. 7	Same subject. Secretary of Treasury has directed United States customs officials to collect on Swiss products brought into United States at similar rates to those enumerated in arrangement with France.	748
131	Mr. Hay to Mr. Du Bois.....	Dec. 14	Same subject. Incloses copy of above note.....	749
138	Mr. Hay to Mr. Leishman....	Dec. 29	Same subject. Necessity of further conventional understanding. Incloses draft of convention.	749
	Mr. Leishman to Mr. Hay....	1899. Jan. 14	Same subject. Above-mentioned draft has been given to Swiss minister for foreign affairs.	750
131	Same to same.....	Feb. 16	Same subject. Incloses counter draft of convention, with explanatory note from Swiss Government.	750
157	Mr. Hay to Mr. Leishman....	Mar. 8	Same subject. Instructs to give notice of termination of Articles VIII to XII.	753
161	Same to same .....	Mar. 17	Same subject. Object of proposed convention was to set down interpretation of United States. Quotes article now submitted in lieu of original Article I which is withdrawn, and which is to supersede Articles VIII to XII. If accepted denunciation of treaty may be revoked.	754
139	Mr. Leishman to Mr. Hay....	Mar. 23	Same subject. Notice of termination of Articles VIII to XII has been served.	756
142	Same to same .....	Apr. 1	Same subject. Department's No. 161 has been communicated to Swiss Government.	756
153	Same to same .....	June 2	Same subject. Denunciation of Articles VIII to XII has been accepted. Incloses note from Swiss Government.	756
155	Same to same .....	June 14	Passport for Jules Michot, presumably born in the United States and residing temporarily in Switzerland. Incloses application and correspondence in relation to.	757
157	Same to same .....	June 19	Passport application of Edward Klipfel, a naturalized citizen, who states that he has no intention of returning to the United States. Requests instructions.	761
177	Mr. Hay to Mr. Leishman....	July 3	Same subject. Declared intention not to return deprives Klipfel of the right to a passport, but his minor children are entitled to protection until they become of age.	761
178	Same to same .....	July 12	Passport for Jules Michot, presumably born in the United States, and residing temporarily in Switzerland. Although born of unknown parents, his birth was in United States, and he is entitled to the issuance of a passport.	760
170	Mr. Leishman to Mr. Hay....	Oct. 6	Passports to Elise and Emma Bernot, infants, born in United States of alien parents. Submits statement of case for instruction.	761
185	Mr. Hay to Mr. Leishman....	Oct. 24	Same subject. The children are entitled to protection of United States.	762
186	Same to same .....	Oct. 26	Same subject. Guardian may make application for.	762
180	Mr. Leishman to Mr. Hay....	Nov. 24	Passport; refusal of legation at Berne to issue to Fred. Knechtenhofer, who returned to Switzerland immediately after acquiring United States citizenship, does not intend to return to the United States, and confesses that he has not renounced Swiss nationality as required by Swiss law. Asks instructions.	762
190	Mr. Hay to Mr. Leishman....	Dec. 12	Same subject. Approves action in refusing to issue passport.	764



## TURKEY.

No.	From and to whom.	Date.	Subject.	Page.
28	Mr. Straus to Mr. Hay.....	1898. Dec. 12	Negotiations for the settlement of indemnity claims of United States citizens. Reports audience with Sultan, who admits claims and promises liquidation.	765
52	Same to same.....	1899. Feb. 28	Same subject. Intention of Sultan to include settlement of claims in purchase of war vessel seems to be confirmed.	766
97	Mr. Hay to Mr. Straus.....	Mar. 25	Same subject. Approves plan to settle all outstanding claims for a lump sum.	766
73	Same to same (telegram)....	Apr. 11	Same subject. Asks what progress is being made.	767
	Mr. Straus to Mr. Hay.....	Apr. 28	Same subject. Finds no disposition on part of Sultan to escape from his promise to arrange matter.	767
118	Mr. Hay to Mr. Straus.....	May 13	Same subject. His action approved and commended.	768
	Mr. Straus to Mr. Hay (telegram).	July 25	Same subject. Wishes Department to impress on Turkish minister to United States, before his departure, necessity of prompt payment.	768
112	Same to same.....	Sept. 23	Same subject. Reports interview with Sultan in which promise of settlement is renewed.	768
136	Same to same.....	Dec. 20	Same subject. Further postponement of settlement anticipated. Promise to pay has been renewed, but note urging prompt action has been sent.	772

## VENEZUELA.

249	Mr. Loomis to Mr. Hay.....	1899. Mar. 9	Courtesies shown by Venezuelan officials to North Atlantic squadron. Suggests that officers of United States vessels go to Caracas and call on the Venezuelan President.	776
260	Same to same.....	Mar. 26	Same subject. Reports contemplated reception to officers of squadron.	776
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# CORRESPONDENCE.

## ARGENTINE REPUBLIC.

### ARGENTINE-CHILE BOUNDARY DISPUTE.<sup>1</sup>

*Mr. Buchanan to Mr. Hay.*

No. 643.]

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, February 23, 1899.*

SIR: I am now able to inform you that this Government has received word that the British Government has recently named the Right Honorable Lord McNaughton, Maj. Gen. J. C. Ardagh, and Col. Sir T. H. Holdich as a commission to examine and study the treaties and documents which may be presented by the Argentine and Chilean Governments bearing upon the limits controversy between the latter countries which they have referred to the Government of Great Britain for arbitration, as you are aware from previous dispatches.

Their commission will have a rather knotty problem to solve at the outset, since there will unquestionably be presented to it two distinctly different translations of the first article of the Argentine-Chilean treaty of 1881—the foundation stone of the whole controversy which has been since carried on between the two countries—as to whether or not the “watershed” theory should apply to the demarcation problem existing between the two countries.

The chief contention before the commission just named will be, I am sure, over what the proper meaning of “vertientes” is in Spanish, and the correct equivalent of the word in English.

The word I refer to, it will be remembered by those who have followed the origin of the limits difficulty between the two countries, occurs between the first and second periods in article 1 of the Argentine-Chilean treaty of 1881, negotiated, as is well known, through the medium of our legations here and in Santiago de Chile.

The original scheme for the treaty was proposed by Chile and presented to this Government by our minister here.

In the scheme, article 1 read as follows:

Base primera: El límite entre Chile y la República Argentina es, de norte á sud hasta el paralelo 52 de latitud, la cordillera de los Andes. La línea fronteriza correrá en esa extensión por las cumbres más elevadas de dichas cordilleras que dividan las aguas. \* \* \*

This Government stated in reply that the article would be accepted “with a small addition to complement it.”

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<sup>1</sup>See Foreign Relations, 1898, p. 1.

The article as thus changed by the Argentine Government and afterwards approved by both countries reads as follows, the words in *italic* being those added by this Government:

Artículo 1. El límite entre la República Argentina y Chile es, de norte á sur, hasta el paralelo 52 de latitud, la cordillera de los Andes. La línea fronteriza correrá en esa extensión por las cumbres más elevadas de dichas cordilleras que dividan las aguas y pasará por entre las vertientes que se desprenden á un lado y otro. \* \* \*

Chile has persistently claimed that the part of the phrase added by the Argentine Government means "watershed." This Government has, as persistently, denied that it so means.

It will, therefore, be interesting to you, I am sure, to note, in the pamphlet I am forwarding you under separate cover, the definition given by Dr. Emilio Lamarca, in the translation he has made for the Argentine ministry of foreign relations, of the word "vertientes" occurring in the article of the treaty to which I referred. Dr. Lamarca was at one time translator in the Argentine foreign office and is now one of the most widely known and proficient attorneys in this city. He is also an excellent linguist, and I therefore need not say great confidence is placed in the presentation he has made of his foundation for the translation of the 1881 treaty he has thus made.

You will notice he calls attention to and challenges the translation of the treaty printed both in our Foreign Relations and in the British State Papers.

The wide difference between his translation of "vertientes" and that made by Chilean writers, and, by whoever it was who translated the 1881 treaty for our legation here, as also by the translator in the case of the British foreign office, consists, as will be seen, in this: Dr. Lamarca does not believe the word "vertiente" has anything to do with water, whereas all the remaining have so connected the word.

I have, etc.,

WILLIAM I. BUCHANAN.

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*Mr. Hay to Mr. Buchanan.*

No. 481.]

DEPARTMENT OF STATE,  
*Washington, April 11, 1899.*

SIR: The Department has received and read with much interest your dispatch No. 643, of February 23, reporting the appointment of the British commission to examine the Argentine-Chilean documents bearing on the boundary controversy, and making certain observations as to the various interpretations of the meaning of article 1 of the Argentine-Chilean treaty of 1881, particularly with reference to the different translations of article 1, printed in the Foreign Relations and British State Papers and by the Argentine department of foreign affairs published in the pamphlet by Dr. Lamarca, of which you transmit copy.

The text of the translation of the treaty of 1881, published by this Government in the volume of Foreign Relations for that year, page 12, was communicated to this Department by the United States minister, General Osborn, in his dispatch No. 338, of October 27, 1881. The version sent was merely a press clipping taken from an English paper published in Buenos Ayres, and was unaccompanied by the Spanish text. Had the Department been in possession of the Spanish text

of the treaty, it would doubtless at the time have noted the faulty translation of the press clipping, which rendered "vertientes" by "springs" instead of "declivities" or "slopes," and "pasar por entre" by "to cross" instead of "to pass between."

In view of the importance which has been given to the publication of this translation in the volume of Foreign Relations, it may be advisable for you to take a favorable opportunity to state to the Argentine minister of foreign affairs that the translation was in no sense an official one, and that this Government can have no responsibility in any claim which may be advanced by either party as to its correctness by reason of such publication in a United States document.

I am, etc.,

JOHN HAY.

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*Mr. García Mérou to Mr. Hay.*

LEGATION OF THE ARGENTINE REPUBLIC,  
Washington, April 19, 1899.

MR. SECRETARY: In obedience to instructions which I have just received by telegraph from the minister of foreign relations of the Argentine Republic, I have the honor to inform your excellency that my Government is deeply grateful to his excellency William I. Buchanan, minister of the United States, for the important service which he has just rendered to it by greatly contributing to the settlement of the boundary question between the Argentine Republic and Chile, as regards the territory situated between 23 degrees and 26 degrees 52 minutes 45 seconds, thus removing all grounds of misunderstanding in the relations between the two countries.

I gladly obey the instructions received, and take pleasure in renewing to your excellency the assurances of my highest and most distinguished consideration.

M. GARCÍA MÉROU.

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*Mr. Hay to Mr. Buchanan.*

No. 487.]

DEPARTMENT OF STATE,  
Washington, April 29, 1899.

SIR: I inclose a copy of a note from the Argentine minister at this capital, expressing the gratitude of his government to you for your services in greatly contributing to the settlement of the Puna de Atacama boundary question between the Argentine Republic and Chile.

I am, etc.,

JOHN HAY.

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*Mr. Buchanan to Mr. Hay.*

No. 700.]

LEGATION OF THE UNITED STATES,  
Buenos Ayres, May 19, 1899.

SIR: I have the honor to acknowledge the receipt of your No. 481, of April 11 last, in which you refer to the translation of the Argentine-Chilean treaty of 1881, which appears in our Foreign Relations for

1881, and suggest the advisability of my explaining to the minister of foreign relations the source from which the said translation was taken.

While at the government house a few days ago on some business with the minister for foreign affairs, he incidentally brought up the boundary question, and I then took occasion to make the explanation you suggest in the closing paragraph of your dispatch to which I am referring.

I added that if the explanation I was thus making was deemed of sufficient importance to be transmitted to the Argentine legation in London, I should be greatly obliged, under all the circumstances of the case, could I have a copy of the form in which it was communicated, so that I might be able to advise you of its character.

The minister replied that he would gladly accede to my request. This he did, and I am therefore able to inclose herewith copy and translation of his note advising me of the character of the information sent the Argentine legation in London.

In view of the importance which seems to be attached to the subject of the translations made of the word "vertientes" at the time of the signing of the treaty, it may not be out of place to call your attention to the fact, that, in the record book in this legation in which the correspondence had between our ministers here and in Chile was written in Spanish and English at the time, the translation of that part of article 1 of the 1881 treaty with which we are concerned appears thus: "The frontier line will run in that extension along the highest peaks of said cordilleras as may divide the waters and will pass between the springs that course down either side."

I have no means of knowing who made the translations appearing in the record book I refer to nor who copied the originals and translations into the book.

I have, etc.,

WILLIAM I. BUCHANAN.

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[Inclosure 2 in No. 700.—Translation of No. 1.]

*Minister Alcorta to Mr. Buchanan.*

MINISTRY OF FOREIGN RELATIONS AND WORSHIP,  
*Buenos Ayres, May 18, 1899.*

DISTINGUISHED MR. MINISTER: After the conversation I had yesterday with your excellency, I addressed to our legation in England the telegram the text of which I take pleasure in transmitting to your excellency. It was as follows:

Conversing to-day with Minister Buchanan upon another subject, I incidentally spoke of limits question. The minister took the opportunity thus afforded to say that some time back he forwarded his Government a copy of Dr. Lamarca's translation of treaties with Chile, and that in doing so he called attention to Dr. Lamarca's criticism of 1881 treaty, which appeared in United States Foreign Relations for 1881. Minister Buchanan added that some days ago he had received an acknowledgment of his dispatch from the Secretary of State, wherein the latter said that, should the occasion offer itself, the former might say to me that the translation thus criticised by Dr. Lamarca was not made by the Department of State, but was taken from an English newspaper published here and transmitted to the Department of State by the United States legation here. The Department of State, therefore, said the minister, thought it best to thus let me know that the said translation was, therefore, in no sense an official one, and that the United States Government, hence, must dis-

claim all responsibility for any claim which might be made by either party to the said treaty as to the correctness of said translation by reason of its publication in a United States official document. Should the subject of said translation be brought up at any time, you will make the above explanations known to the arbitration commission.

I take advantage of this opportunity to greet your excellency with the assurances of my most distinguished consideration and to repeat myself,

Your obedient servant,

A. ALCORTA.

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**TRADE-MARKS OF UNITED STATES CITIZENS IMPROPERLY  
APPROPRIATED IN ARGENTINE REPUBLIC.**

*Mr. Hay to Mr. Buchanan.*

No. 454.]

DEPARTMENT OF STATE,  
*Washington, February 16, 1899.*

SIR: I inclose copy of a letter from Messrs. Briesen & Knauth, of New York City, complaining that the trade-marks and symbols of United States citizens are improperly appropriated in the Argentine Republic.

You will give the subject attention in the way of inquiry and, if convenient occasion offers, of suggestion to the minister for foreign affairs in the direction of an understanding which would remove or lessen the ground of complaint.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Briesen & Knauth to Mr. Hay.*

NEW YORK, *February 8, 1899.*

SIR: Clients of ours, large exporters of ware made in the United States to South American countries, especially to Brazil and the Argentine Republic, complain to us that citizens of these countries are permitted to bodily appropriate and register as their own the trade-marks and symbols of United States citizens and to thus shut out importations from this country or else force the importer to buy back from them the right which is justly his own.

We write to ask if any confirmation or denial of this alleged state of facts is obtainable through your Department, and to request that the United States diplomatic or consular officers in these countries be communicated with on this subject, with the view to determining whether the practice complained of exists, and whether, if it does, there is any adequate remedy.

The favor of an answer is respectfully requested.

Very respectfully,

BRIESEN & KNAUTH.



*Mr. Buchanan to Mr. Hay.*

No. 671.]

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, April 25, 1899.*

SIR: I have the honor to acknowledge the receipt of your No. 454 of February 16 last, with which you inclose a copy of a letter received by the Department from Messrs. Briesen & Knauth, of New York, in which they complain of the trade-mark law of this Republic as it applies to the registration by those doing business here of trade-marks copyrighted in other countries by the manufacturer.

The practice complained of by the Department's correspondents not only prevails here now, but has done so for a long time past.

The reason the practice has grown up here usually lies in the negligence shown by our manufacturers with regard to having their trade-marks entered in the Government Patent Office here in their own names, either before they make any sales here, or, at the time their goods are first sent here. They appear to give no particular attention to the subject until they desire to sell a new customer here, or to change their agency from one firm to another; then they find, in many cases, that the firm that has been handling their goods here has had the manufacturer's trade-mark registered under its (the selling firm's) own name in order to protect and hold the trade on the goods in question by making it impossible for any competing house here to sell the same goods under the manufacturer's trade-mark.

To my personal knowledge this has occurred here with several well-known marks of goods. I therefore conclude either that our manufacturers do not seem willing to go to the expense incident to the registration of their trade-marks here, or that they do not properly realize the great advantage it will be to them to control their own trade-marks from the beginning of their business with this and other countries. If they appreciated well the latter I feel sure they would provide in their contracts with those representing them here and in other countries that their trade-marks should be registered in their (the manufacturers') own name.

A strong effort is now being made here by manufacturers from Europe to correct the blemishes apparent in the Argentine trade-mark laws, inasmuch as they suffer from the operation of the law to a greater extent than do our own manufacturers.

Owing to the injury being done by imitations, etc., of trade-marks to many lines of French manufacture, the French legation has been for a year interested in this effort.

The question will be again brought forward in the coming Congress, and I some time ago said to the French minister that I would gladly do what I might be able to do to have the law modified during this year's Congress.

For the present the best course our manufacturers can pursue is to take the requisite steps to register our trade-marks here in their own name.

I shall be happy to render anyone any service I can in any such case.

I have, etc.,

WILLIAM I. BUCHANAN.

## MESSAGE OF PRESIDENT OF ARGENTINE REPUBLIC.

*Mr. Buchanan to Mr. Hay.*

No. 684.]

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, May 2, 1899.*

SIR: The Argentine National Congress opened its regular sessions yesterday with the usual ceremonies. President Roca's message was closely listened to and applauded in that portion wherein he stated that no new emission of paper money would be made.

\* \* \* \* \*

Owing to the direct and highly complimentary reference made by President Roca to what this legation has done toward assisting in the solutions arrived at in the limits disputes which have existed between this country and Chile, I deem it best to insert here a translation of those paragraphs of his message in which he refers to the foreign relations of the Republic, and especially to the settlement of the Puna de Atacama dispute. His message begins as follows:

To-day, with greater propriety than ever before, can it be said that the sessions of the National Congress begin under evidences of internal and external peace, and of the Republic having returned to work and to the development of its resources full of confidence in the present and in the promises held out by the future.

Our old territorial questions with Brazil and Paraguay terminated by arbitration, our difficulties with Bolivia directly arranged in a friendly manner, we have just concluded in a similar manner our boundary differences with the Republic of Chile in the north, while the Government of Her Britannic Majesty is engaged in studying those of the south, which were submitted by the two Republics to the high decision of the Government.

We are hence thus able to now consider as concluded the last of our boundary questions, which, from time to time, have not only disturbed our international relations, but, on some occasions, have threatened their violent rupture, and an implacable war, which, had it occurred, would have been a shame to America and scandalous before the eyes of the world.

At peace among ourselves, at peace with neighboring republics and with all nations, we need not henceforward devote a large portion of the public revenue to the purchase of elements of destruction, but can, on the contrary, devote our means toward stimulating our energies in every manner possible to the end that as a nation we may reach the high position the patriotism of our fathers has pictured for us.

The delimitation of the Puna de Atacama, which has just been concluded, has an importance vastly greater than the value of the territory in dispute. By it there has been closed the long period of uneasiness and inquietude which has been the cause of so many sacrifices, both on the part of this people and that of Chile, who have, however, in the end, guided by their intelligent reasoning and by a knowledge of their own greater good, mutually reached the ground of a complete and happy understanding between themselves. This, together with the work of the commission of eminent citizens of both Republics which met recently in this capital, and the interview I had the satisfaction, during my recent trip to our southern territories, to hold with His Excellency the President of Chile in the presence of the powerful ships of war of the two countries, brought together in the joint waters of the Straits of Magellan, has given place in both countries to an exchange of cordial manifestations which will be advantageously felt in the friendly relations we are called upon to cultivate with each other henceforward.

The participation taken in the solution of the difficulties of which I speak by Mr. Buchanan, the American minister, has also been a motive for particular gratification. To that solution he chiefly contributed, and thus rendered both Republics an eminent service. This is not the first occasion upon which it has fallen to the lot of a minister of the great Confederation of the North to decisively intervene in our boundary disputes in the interest of the international peace. Nor will this ever be forgotten by the two peoples whose destinies have been at stake on one or the other side of the mountains.

The principal point in the message is that wherein the President says he feels that the Republic shall arrange a method by which a gradual conversion of its paper money can be effected without injuring the country. He says he will submit a plan hereafter for the consideration of Congress. The general belief is that the plan to be proposed will be one that has been much discussed here during the past year—to provide by law a fixed rate of exchange, or rather “gold rate,” at which gold and paper money shall be interchangeable for a fixed time. When the country has had time to adjust itself to that rate and has had an opportunity to “discount the future” by preparing for a new rate of exchange, then the plan is to create a new and lower rate, and thus reach par by successive steps.

The Bolsa has evidently little confidence in the success of the plan talked of, since to-day gold rose five points on the opening of the market and fell three points within an hour.

What the President wishes to overcome is the injurious effect produced upon all commerce here by the daily and constant “fluctuations of gold,” or the differing value of the money of the country.

I have, etc.,

WILLIAM I. BUCHANAN.

#### ARBITRATION TREATY BETWEEN ARGENTINE REPUBLIC AND URUGUAY.

*Mr. Buchanan to Mr. Hay.*

No 710.]

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, June 14, 1899.*

SIR: It gives me pleasure to inclose herewith a copy and translation of the general treaty of arbitration which has recently been signed here between this Government and that of Uruguay.

I am sure it will be read with great interest by you, as it undoubtedly reflects in a highly complimentary and commendable manner not only the good will and feeling of confidence which exists between the two neighboring Republics, which have thus been the first among their sister Republics to the south of our own to adopt by treaty the principle of arbitration in a wide and rational sense, but, as well, great credit upon the two Governments.

Since the signing of this treaty I have been spoken to several times by public men here with regard to their wish that they might see the same kind of a treaty signed with our Government. Yesterday his excellency President Roca said to me that he heartily hoped such a treaty might be concluded between his Government and our own; that such an act would have a far greater moral weight and be of wider good throughout South America than we possibly imagined; that he hoped that I would not fail while at Washington on leave to express to you and the President his view in that regard and the pleasure it would give him to see such a treaty signed between our Government and that of his country.

I replied that I would not only most gladly do as he wished, but that I felt certain the sentiments he had expressed would find a cordial welcome on the part of the President. In so stating, I feel sure I was

properly interpreting what would have been your instructions had you known of the subject.

I shall, in compliance with President Roca's wish, do myself the honor when in Washington in August to verbally express to you the reasons he gave me for wishing to make such a treaty with us and his hope that we might decide to do so.

I have, etc.,

WILLIAM I. BUCHANAN.

[Inclosure.—Translation from *La Nacion*, June 11, 1899.]

*General treaty of arbitration, signed at Buenos Ayres June 8, 1899, between the Argentine and Uruguayan Governments.*

The Governments of the Argentine Republic and of the Oriental Republic of Uruguay, animated by a common desire to solve by friendly means whatever question that may arise between them, have agreed to celebrate a general treaty of arbitration, for which purpose they name as their plenipotentiaries, to wit:

His excellency the President of the Argentine Republic; his minister, secretary of the department of foreign relations and worship, Dr. Amancio Alcorta; and his excellency the President of the Oriental Republic of Uruguay; his envoy extraordinary and minister plenipotentiary in the Argentine Republic, Dr. Gonzalo Ramirez, who, having communicated to each other their full powers, found to be in due and good form, have agreed on the following articles:

ARTICLE 1. The high contracting parties obligate themselves to submit to an arbitral decision all controversies of whatever kind which for any cause may arise between them, when they do not affect the principles of the constitution of one or the other country, and when they can not be solved by means of direct negotiations.

ART. 2. Questions which have been the objects of definite arrangements between the parties can not be renewed by virtue of this treaty. In such cases arbitration will be exclusively limited to the questions which may arise upon the validity, interpretation, and compliance with said arrangements.

ART. 3. In each case arising a tribunal of arbitration will be created, which shall resolve the existing controversy. If no agreement can be reached as to the constitution of the tribunal, it shall be composed of three judges. Each State shall name an arbitrator, and these shall designate the third. If they can not agree upon this designation, it shall be made by the head of a third State, who will be indicated by the arbitrators named by the parties. If no agreement can be reached concerning this last nomination, the President of the French Republic shall be asked to make the designation. The arbitrator thus designated shall by right be president of the tribunal.

No person can be named third arbitrator who in such character shall have previously rendered a decision in an arbitral case under the terms of this treaty.

ART. 4. None of the arbitrators can be a citizen of the contracting States nor domiciled in their territory. Neither can they have an interest in the questions which may be the object of arbitration.

ART. 5. In the case of the nonacceptance or resignation of one or more of the arbitrators, or an insuperable impediment befalling one of them, a substitute shall be provided according to the same proceedings observed for the nomination of the arbitrator.

ART. 6. The points agreed upon shall be set forth by the contracting States, which can also fix the scope of the powers of the arbitrators and any other facts relating to the proceedings.

ART. 7. In default of special stipulations between the parties, it appertains to the tribunal to designate the time and place of its sittings outside the territory of the contracting States, to elect the language that shall be employed, to determine the methods of proofs, the formalities that shall be followed by the two parties, the procedure to be observed, and in general to take all measures that may be necessary to enable it to perform its functions, and to resolve all the difficulties which may arise in the course of debate. The contracting parties agree to place at the disposition of the arbitrators all means of information of which they are possessed.

ART. 8. Each one of the parties can appoint one or more representatives before the arbitral tribunal.

ART. 9. The tribunal is competent to pronounce upon the regularity of its own constitution, validity of the agreement, and of its interpretation. It is equally com-

petent to settle the controversies that may arise between the contracting parties on the subject whether certain questions may have or have not been points submitted to arbitral jurisdiction under written agreement.

ART. 10. The tribunal shall decide in accord with the principles of international law, unless the agreement imposes the application of special rules or authorizes the arbitrators to decide as friendly intermediators.

ART. 11. The tribunal can not meet without the attendance of the three arbitrators.

In the event that the minority, after being duly cited, declines to take part in the deliberations or other acts of the case, the tribunal will be formed by the majority of the arbitrators only, the voluntary or unjustifiable nonattendance of the minority being duly noted.

The award reached by the majority of the arbitrators will be final, but if the third arbitrator does not accept the view of either of the arbitrators named by the two parties his conclusion will be final.

ART. 12. The award shall definitely decide each point in controversy, giving the reasons therefor.

It shall be written in duplicate and signed by all the arbitrators. If one of them should refuse to sign it the others shall make mention of this fact in a special act, and the award shall be effective when signed by the majority of the arbitrators. The dissenting arbitrator shall at the time of the signing of the award make known his disagreement therewith, but without expressing his reasons therefor.

ART. 13. The notification of the award shall be made to each one of the contracting parties by its representative before the tribunal.

ART. 14. The award legally rendered shall settle within the limits of its effect the controversy between the parties.

ART. 15. The tribunal shall set forth the period within which it shall be made effective, being competent to decide the questions that may arise in consequence of the execution of the award.

ART. 16. The award can not be appealed, and its execution is confided to the honor of the nations who are signatories to this pact.

Nevertheless, recourse of revision before the same tribunal which pronounced the award may be had, provided there is shown before the expiration of the time named for the execution of the award that:

I. It has been rendered by virtue of a forced or falsified document.

II. That it has been in whole or in part the consequence of an error of fact resulting from the proceedings or documents in the case.

ART. 17. Each of the contracting parties shall pay its own expenses and half of the general expenses of the arbitral tribunal.

ART. 18. The present treaty shall remain in force for ten years from the date of the exchange of ratifications. If it should not be denounced six months prior to its term of expiration, it shall be regarded as renewed for another period of ten years, and so successively.

The present treaty shall be ratified and its ratifications exchanged in Buenos Ayres within six months from the date thereof.

In witness whereof the plenipotentiaries of the Argentine Republic and of the Oriental Republic of Uruguay have signed and sealed with their respective seals, in duplicate, the present treaty, in the city of Buenos Ayres, the 8th day of June, 1899.

AMANCIO ALCORTA.

GONZALO RAMIREZ.

## AUSTRIA-HUNGARY.

### ARREST OF AARON KENIG ON A CHARGE OF ASSISTING AN AUSTRIAN SUBJECT ACROSS THE FRONTIER.

*Mr. Tower to Mr. Hay.*

No. 116.]

UNITED STATES LEGATION,  
*Vienna, January 25, 1899*

SIR: In compliance with the instructions contained in your dispatch No. 191, of the 6th of January, 1899, I have the honor to report to you the case of Aaron Kenig, a naturalized American citizen, who was arrested in Austria in the month of December, 1897, on the charge of attempting to assist an Austrian subject to cross the frontier of the Empire without a permit, in order to evade his obligation to perform military duty, in regard to which I have been in correspondence with the Austro-Hungarian foreign office during the past year.

The facts relating to this case, in so far as I have knowledge of them, are as follows: Aaron Kenig was born in the city of Roman, in Roumania, in the month of April, 1863. He emigrated to the United States in 1883, going directly to Hartford, Conn., where he now resides and makes his living by selling boots and shoes. He was admitted to citizenship in the United States before the court of common pleas at Hartford, on the 26th of October, 1892.

In the month of May, 1897, Mr. Kenig returned to Europe to make a visit to his friends, during the course of which he was married at Busk, in Austrian Galicia, in the month of November of that year, and in December he set out with his wife to go back to his home in Connecticut.

He took with him on that occasion, as a traveling companion, a young man about 18 years of age, named David Taeger, a cousin of his wife, an Austrian subject, residing in Busk. It was the intention of this young man to go to America with Mr. Kenig, who had agreed to help him and to pay his passage. Taeger had not, however, obtained from the Austrian authorities the permit to travel, which it is customary in this Empire to issue in such cases, and which is necessary to enable an Austrian subject to cross the frontier.

When the train in which Mr. and Mrs. Kenig and young Taeger were traveling reached the station of Szczakowa, where an examination of passports and traveling permits is made by the police, the party were called upon with the other passengers to show their papers. Mr. Kenig exhibited a passport issued to him by the Secretary of State at Washington, in May, 1897, which was accepted at once by the police agents as a sufficient identification of himself and his wife; but Taeger, who had no document of any kind to show, was immediately arrested. He was sent back to his home, and Aaron Kenig was charged with aiding him to escape the performance of his military duty by going abroad.

Mr. Kenig was summoned to appear before the police magistrate at Szczakowa to answer this charge, and was subsequently bound over

for trial before the district court at Taworzno; his money and his passport were taken from him and held by the authorities in the nature of bail for his appearance. Having proceeded to Taworzno accordingly in answer to this summons, he was there informed that his case had been transferred to the circuit court at Zloczow, and he was ordered to go there for trial.

The money thus seized consisted of the following sums, to wit: 410 Austrian florins (\$166.46), 50 reichmarks and 25 pfennigs in German currency (\$11.96), 1 Russian ruble (52 cents), and 85 cents in American coin. Of this sum, I understand that 20 Austrian florins were returned to him for his immediate wants.

Instead of appearing before the circuit court at Zloczow, as he had been notified to do, Mr. Kenig came to this legation on the 11th day of January, 1898, and made a complaint as to his arrest. As it seemed to me likely that this case might lead to subsequent correspondence with the Austro-Hungarian foreign office, I took from him, while the facts were still fresh in his mind, the affidavit, a copy of which is included in the documents submitted herewith. In that affidavit Mr. Kenig admitted that he had committed the offense with which he was charged. It will be observed that he swore to the following statement: "But Taeger, who had no passport of any kind, was held upon the charge of attempting to evade the military service to which he was bound by the laws of Austria-Hungary. Taeger admitted to the police authorities that he was upon his road to America with Kenig and his wife, and that the party intended to sail from Bremen for New York. Kenig was arrested at once upon the charge of assisting Taeger to escape military duty, and was taken in company with Taeger before a police magistrate of Szacowa. At the examination before this magistrate Kenig admitted that Taeger was traveling with him to Bremen for the purpose of emigrating. The magistrate then said to Taeger, 'How can you emigrate when you have no money?' Taeger replied, 'Mr. Kenig is going to pay my passage from Bremen.' Whereupon Kenig added, 'Yes, I am going to give him the money to pay his passage from Bremen to New York.' The magistrate arrested Taeger immediately, and Kenig was held for a further hearing."

Mr. Kenig did not say definitely when he left this legation after making the affidavit in question that he should not return to Zloczow and undergo his trial there, though he intimated that if he could obtain sufficient money from friends of his in Vienna he should disregard the summons of the court and go directly to America.

Subsequently I received from him a postal card dated at Bremen the 14th of January, 1898, and mailed there the same day, upon which the following message was written:

I notify you es I em goieng hom to Hartford conn Amerika tomorrow the 15th and I liff min case in your hands the imount of money is 410 o/W, 85¢ Amerikan money all the ansver witch you will hev to ansver me, Please send to Hartford conn.

Yours Trouly,

AARON KENIG.

With the purpose of ascertaining the view of the Austrian authorities in regard to this case, and also to assist this American citizen in the event of my being able to do so, I wrote to the chief of police at Krakau, to the district captain at Zloczow, and also to the judge of the court at Taworzno, inquiring of them upon what ground Aaron Kenig had been arrested and what disposition, if any, had been made of his

money and his passport. The replies of these officials having merely indicated the facts of his arrest, however, without any assurance that a speedy trial would be held, and as I had been informed in the meantime that Kenig had arrived in America, whence he had no intention of returning to appear before the Austrian courts, I addressed to the Count Goluchowski, Austro-Hungarian minister of foreign affairs, on the 9th of March, 1898, the note a copy of which is herewith inclosed, setting forth the facts as they had been represented to me by Mr. Kenig, and requesting him to cause an examination into this question to be made by the proper authorities, in order that this citizen of the United States may have justice done to him and that he may have returned to him the money that was taken from him and his American passport.

In reply to this request I received the 10th of September, 1898, the note of which a translated copy is hereto appended, whereby the minister of foreign affairs confirmed the statement of facts of Kenig's arrest, as these were already known to me, and added that, after the preliminary hearing at Taworzno, Kenig had left Galicia; that as his whereabouts was not known the trial had been postponed until such a time as he could be arrested, and that the money taken from him, as well as his passport, was held in custody by the court; that subsequently a decree had been entered by the court according to which Mr. Kenig's money "was ordered to be retained by the court to pay the costs of the legal proceedings," though his passport was ordered to be returned to him upon his request at the termination of the trial.

Thereupon I addressed to the Count Goluchowski the note dated the 15th of October, 1898, a copy of which is attached hereto, in which I asked to have Mr. Kenig's passport sent to this legation for transmission to him; and, in order the better to understand the rather general statement that "the money taken from Aaron Kenig was directed to be retained to pay the costs of the legal proceedings," I requested that I might be furnished by the court at Zloczow with a copy of its judgment against Mr. Kenig and of the decree under which his money was confiscated, to enable me to make my report to the Government of the United States complete in regard to this matter.

In compliance with this request I was furnished by the minister of foreign affairs, on the 29th of December, 1898, with a copy of the decree of the court, which I have appended hereto in a translation. By this decree, which was dated the 2d of May, 1898, it is evident that no final disposition of Mr. Kenig's money has been made, but that it is simply being held with his passport until such time as his case may have been determined, and it will then be used, either wholly or in part, to pay the costs incurred by the proceedings. Meanwhile, the case has been indefinitely postponed until Kenig shall have been taken into custody.

Therefore I addressed a note to the Count Goluchowski, on the 6th of January, 1899, in which I called his attention to the fact that no steps have been taken in this case since the month of May, 1898, but that the money and the passport taken from Kenig are still held in abeyance by the court. I added that this defendant is now in America, at his home in Hartford, Conn.; and I said further:

More than a year has elapsed since the occurrence of the offense with which he has been charged, and eight months have passed without any final judgment having been delivered in regard to it. He asks to have his money given back to him and his United States passport returned into his possession.



I beg, therefore, respectfully to request that justice be done to this American citizen without further delay; that his case be proceeded with immediately and a verdict rendered by the honorable court in accordance with the laws of the Empire; that both his passport and his money, or such portion of it as he may be found legally entitled to receive, be given back into his hands, and that the final disposition of this matter be held no longer in suspense.

At this point my negotiations rest for the present.

A complete copy of the correspondence relating to this case is respectfully submitted herewith.

I have, etc.,

CHARLEMAGNE TOWER.

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[Inclosure 1.]

*Aaron Kenig to the United States Consul-General at Vienna.*

[Telegram—Translation.]

SZCZAKOWA, December 20, 1897.

As an American subject I have been arrested by the police authorities of Szczakowa; what cash I possessed has been taken from me; please help.

AARON KENIG.

Respectfully referred to the legation, and Mr. Kenig so advised.

CARL BAILEY HURST,  
*Consul-General.*

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[Inclosure 2.—Telegram.]

*The Legation to Mr. Kenig.*

Send passport, naturalization certificate, and write full particulars.

AMERICAN MINISTER.

Sent Tuesday, December 21, 1897, at 2 p. m.

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[Inclosure 3.]

*The Legation to Aaron Kenig.*

UNITED STATES LEGATION,  
*Vienna, December 21, 1897.*

SIR: Supplementary to my telegram sent you to-day saying: "Send passport and naturalization certificate and write full particulars at once," I must ask you to send me a detailed account of your arrest, its causes, and all other particulars necessary in order to enable me to make a case which I can present to the foreign office for your protection.

If the arrest was made for having failed to render military duty, you must state date and place of birth, date of emigration, date of return to this country, and all other details you may deem proper to make known.

Once in full possession of all these facts, I will do what I can to see that justice is done you.

I am, etc.,

CHARLEMAGNE TOWER.

[Inclosure 4.]

*Aaron Kenig to the Legation.*

WEIN TAN, 5/98.

DEAR SIR: Fater Please hav sorey with me with I cent stent I em widout sent 16 Days it is to blem me but I did not meant to du watt it is not wrigt. Please push dis case I hav sien the answer from Zlocrow, Please ansver dem at ones I did expect to sell mine watch or to pawn it, but I cant git inof to git away to Bremen, I am asking you es you should bee mone on Fater to helpp me in thies case, I hopp you will not for get yours very trouly.

A. KENIG.

[Inclosure 5.]

*Affidavit by Aaron Kenig before the Legation.*

On the eleventh day of January, A. D. 1898, before me, the undersigned, secretary of legation of the United States of America at Vienna, Austria, personally appeared Aaron Kenig, a naturalized citizen of the United States, domiciled in Hartford, Connecticut, who, being duly sworn, deposed and said: I was born at the city of Roman, in Roumania, in the month of April, 1863; I emigrated to the United States from Hamburg to New York in April or May, 1883; I went directly to Hartford, Connecticut, where I remained a few months, and then went to Northampton, Massachusetts, where I lived for two years, carrying on my occupation as a peddler; in 1885 I returned to Hartford, Connecticut, where I have since resided, and have kept a boot and shoe store. I was naturalized as a citizen of the United States before the court of common pleas at Hartford, Connecticut, on the 26th of October, 1892. The certificate of naturalization of the said Kenig, issued by the court aforesaid, was exhibited by the deponent to me, the undersigned, at the time of his making this deposition. The said Kenig further deposed that he left the United States on the 22d of May, 1897, sailing from New York to Glasgow by the steamer *Glasgow*. After passing the summer at Dalatin, in Austria, I was married at Busk, in Austria, in November, 1897, to Miss Ryfka Schimmelmänn (recte Grunberg). On the 19th of December, 1897, the said Kenig left Busk in company with his wife, intending to return to the United States by way of Bremen. He had with him, also, a young man named David Taeger, whom he supposes to be about eighteen years of age. The said Taeger is a cousin of Kenig's wife, and intended to accompany Kenig to America, Kenig having promised to furnish him with the money for that purpose. Upon the arrival of the train in which Kenig and his wife, with the said Taeger, were travelling, at the station of Szcyszowa, the party were summoned by the police commissioners to show their passports. Kenig produced his passport issued to him by the Department of State at Washington in May, 1897, which was recognized by the police and declared sufficient to pass him and his wife; but Taeger, who had no passport of any kind, was held upon the charge of attempting to evade the military service, to which he was bound by the laws of Austria-Hungary. Taeger admitted to the police authorities that he was upon his road to America with Kenig and his wife, and that the

party intended to sail from Bremen for New York. Kenig was arrested at once upon the charge of assisting Taeger to escape military duty, and was taken, in company with Taeger, before a police magistrate at Szczowa. At the examination before this magistrate Kenig admitted that Taeger was travelling with him to Bremen for the purpose of emigrating. The magistrate then said to Taeger, "How can you emigrate when you have no money?" Taeger replied, "Mr. Kenig is going to pay my passage from Bremen." Whereupon Kenig added, "Yes, I am going to give him the money to pay his passage from Bremen to New York." The magistrate arrested Taeger immediately, and Kenig was held for a further hearing. His United States passport and his money, amounting to about \$130, were taken from him, and are still held by the police authorities.

The deponent further says that the foregoing statements are true, to the best of his information, knowledge, and belief.

AARON KENIG.

In the presence of—

WILLIAM HUNNING.

CHARLES V. HERDLISKA,  
*Secretary of the Legation of the United States  
at Vienna, Austria.*

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[Inclosure 6.]

*Aaron Kenig to the Legation.*

BREMEN, January 14, 1898.

DEAR SIR: I notify you es I am going hom to Hartford conn, Amerika tomorrow the 15th and I giff mine case in your hands. The imont of money is 410 $\frac{9}{10}$  Gulden 50 Mark 25 pfenings one Rubel 85¢ Amerikan money all the ansver witch you will hev to ansver me please send to Hartford conn, yours trouly.

AARON KENIG.

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[Inclosure 7.]

*The Legation to the Foreign Office.*

UNITED STATES LEGATION,  
*Vienna, March 9, 1898.*

YOUR EXCELLENCY: Complaint has been made at this legation by one Aaron Kenig, a naturalized citizen of the United States of America, that during the month of December, 1897, as he, the said Kenig, was traveling through the territory of his Imperial and Royal Majesty the Emperor of Austria-Hungary, he was arrested by the police authorities at the station of Szczakowa, where his money, as well as his American passport, was taken from him, and that these have never been returned.

The facts of the case appear, from his statement, to be these: Aaron Kenig was born at the city of Roman, in Roumania, in the year 1863. He emigrated to America in 1883, and became a citizen of the United States under due form of law in the year 1892. In the summer of 1897 the said Kenig left the United States upon a visit to friends of

his in Austria, and he was married at Busk, in the month of November, to Miss Ryfka Schimmelmänn (recte Grunberg). He left Busk on the 19th of December, 1897, in company with his wife, intending to return to his home in America, and they were accompanied on their journey by a young man about 18 years of age named David Taeger, a cousin of Kenig's wife, who was also going to America.

When the train in which this party were traveling reached the station of Szczakowa, they were called upon to show their passports. Kenig exhibited his immediately, but the young man, Taeger, having no passport, was arrested, and returned by the authorities to his home.

In the meantime Kenig was also held by the police officer, who took from him what money he had upon his person, namely, about 410 florins, 50 marks, 1 ruble, and some small American silver coins, together with his passport, upon the accusation that he was aiding the said Taeger to escape his military duty, which Kenig declares he was not guilty of.

No direct charge was brought against Kenig, however, nor was he detained under arrest by the authorities. He came early in January to Vienna, where he borrowed from his friends sufficient money with which to proceed upon his journey, and he then went back to America. Not having heard further from the police authorities who took his property from him at Szczakowa, he has now laid his case before the Department of State at Washington, and prayed that restitution may be made to him.

I have the honor to request your excellency to cause an examination into this question to be made by the proper authorities, in order that this citizen of the United States may have justice done to him, and that he may have returned to him the money that was taken from him and his American passport.

I avail myself, etc.,

CHARLEMAGNE TOWER.

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[Inclosure 8.]

*Aaron Kenig to the Legation.*

HARTFORD, CONN., *May 24, 1898.*

DEAR SIR: You would greatly oblige me by informing me the result of my case in regard to my money which was seized from me by the Austrian Government officers near their frontier on November 20, 1897. I have been in your office that time and have given you all particulars.

Hoping you will favor me with your reply, I thank you in advance.

Very respectfully, yours,

AARON KENIG.

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[Inclosure 9.]

*Mr. Herdliska to Aaron Kenig.*

UNITED STATES LEGATION,  
*Vienna, June 16, 1898.*

SIR: In reply to your note of the 24th of May, 1898, from Hartford, Conn., making inquiry as to the progress of your case, the min-

ister of the United States of America directs me to inform you that the facts in your case were presented in full, to the Austro-Hungarian ministry of foreign affairs by this legation on the 9th of March, 1898, with the request that an examination into the question be made by the proper authorities in order that justice might be done you, and that the money that was taken from you and your American passport might be returned to you.

As soon as a decision is rendered by the Austro-Hungarian Government in your case, it will at once be communicated to you through the Department of State at Washington.

Very respectfully, yours,

CHARLES V. HERDLISKA,  
*Secretary of Legation.*

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[Inclosure 10.—Translation.]

*The Foreign Office to the Legation.*

In reply to the esteemed note of the 9th of March, 1898, No. 39, presenting the complaint of the American citizen, Aaron Kenig, who was arrested and deprived of his money and his passport in the railway station at Szczakowa, in the month of December, 1897, the Imperial and Royal ministry of foreign affairs has the honor respectfully to communicate to the legation of the United States of America, as a result of the inquiries instituted by it, the following:

Aaron Kenig was, in fact, taken into custody at Szczakowa on the 20th of December, 1897, upon suspicion of being an accessory to a crime as per paragraph 45 of the Military Law, upon the ground that, according to his own admission, he wished to take with him to America, at his own expense, the 18-year old David Taeger, of Chylczyce, in the district of Zloczow, who had just become liable to military duty. Taeger was delivered by the police authorities to the Imperial and Royal district court at Taworzno, whereas Kenig, on the other hand, was discharged from custody. In order, however, to insure his appearance before the court, his money, amounting to 410 florins 50 marks and 25 pfenings, 1 ruble, and a number of small American silver coins, as well as his passport, was taken from him and handed to the said district court. Kenig duly presented himself before the Imperial and Royal district court at Taworzno, but upon learning that his case had been transferred to the Imperial and Royal circuit court at Zloczow he left Galicia.

Meanwhile, upon the motion of the Imperial and Royal State's attorney at Zloczow, the preliminary examination into his case for his violation of the Civil Code through the crime of abduction (paragraph 96 of the Civil Code), committed by him through his having abducted the minor, David Taeger, to Szczakowa without the knowledge of the said Taeger's father, was begun.

As, however, his whereabouts was unknown, the trial was according to the paragraph 412 of the criminal law, postponed until such time as he could be arrested, and the money taken from him, as also his passport, was, under the regulations in force, taken into the custody of the court.

Later the council of the Imperial and Royal circuit court at Zloczow entered a decree by which the money taken from Aaron Kenig was ordered to be retained by the court to pay the costs of the legal proceedings; whilst the passport was directed to be returned to Kenig, at his request, upon the termination of the trial.

For the minister:

WELSERSHEIMB.

VIENNA, *September 10, 1898.*

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[Inclosure 11.]

*The Legation to the Foreign Office.*

UNITED STATES LEGATION,  
*Vienna, October 15, 1898.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 7-44921 under date of the 10th of September, 1898, in reply to my communication addressed to you upon the 9th of March, 1898, in regard to the arrest at Szczakowa, in December of last year, of one Aaron Kenig, an American citizen, upon the charge of having violated the military laws of the Empire of Austria by assisting a young Austrian subject, named David Taeger, to cross the boundary of the Empire without a lawful permit and of having furnished the said Taeger with money out of his own purse for the said purpose.

Your excellency now informs me that upon his arrest the said Aaron Kenig appeared to answer the charge before the Bezirksgericht at Taworzno; but that he was thereupon notified that his trial would take place at Zloczow and he was summoned accordingly to appear before the Kreisgericht at that place.

In the meantime action was brought against Kenig by the State's attorney before the said tribunal at Zloczow, but as Kenig did not appear to make answer, and his whereabouts could not be ascertained, the trial was adjourned until such time as he should have been arrested.

Later, however, as the said Kenig failed to appear before the court, the council of the Kreisgericht at Zloczow entered a decree by which the money taken from Kenig at the time of his arrest was ordered to be seized and used to pay the costs of the legal proceedings in this case, whilst the United States passport which was taken from Kenig at the same time was directed to be returned to him, at his request, upon the termination of the trial.

I respectfully request, therefore, that your excellency will direct Mr. Kenig's papers to be sent to this legation to be transmitted to him through the Department of State at Washington.

I also request that I may be furnished by the court at Zloczow with a copy of its judgment against Mr. Kenig, and of the decree under which his money was confiscated, in order that my report to the Government of the United States upon this subject may be complete.

I avail myself, etc.,

CHARLEMAGNE TOWER.

[Inclosure 12.]

*Aaron Kenig to the Legation.*HARTFORD, CONN., *October 12, 1898.*

DEAR SIR: Please answer what it will be the end of the amount of Money which bin taken away from me, on 20 of December 1897, You did wrote few Months ago, as you expect in few Weeks should be a settlement. I hope you will attent to it at wonce I hope to hear from you as soon as possible.

This young man David Tager which he was arrested by the aurtris frontear which he was travelling with me he is in U. State already.

I am very respectfully yours,

A. KENIG.

Received, United States legation, October 25, 1898.

[Inclosure 13.]

*The Legation to Aaron Kenig.*

UNITED STATES LEGATION,  
*Vienna, October 25, 1898.*

SIR: I have received your letter of the 12th of October in which you inquire what has been done with the money which was taken from you at the time of your arrest on the Austrian frontier, in December, 1897. In the month of March, 1898, I addressed a note to the Austro-Hungarian foreign office in your behalf, and asked to be informed what steps had been taken by the courts in regard to your case.

I have recently had a reply from the minister, who announces to me that when you were notified to appear before the court at Zloczow for trial your money and passport were held as a bail for your appearance. But that after you had gone away and never appeared according to the notice given you, the court had declared your money to be forfeited. The minister added that your passport would be returned to you upon demand. I wrote him thereupon under date of October 15, 1898, requesting that your passport be sent to this legation for transmission to you, and asking also for a copy of the judgment and decree of the court under which your money was confiscated. When I receive his reply I shall report the whole case to the Department of State at Washington, whence, I have no doubt, the Secretary of State will communicate with you.

I am, etc.,

CHARLEMAGNE TOWER.

[Inclosure 14.]

*Foreign Office to Legation.*

In compliance with the request presented in the esteemed note of the 15th of October, 1898, F. O. No. 80, the Imperial and Royal ministry of foreign affairs has the honor respectfully to transmit herewith to the legation of the United States of America a copy of the order issued by the council of the Imperial and Royal circuit court at Zloczow on

the 2d of May, 1898, together with a translation of the same into German. From this decree of the court at Zloczow it appears that the passport of Aaron Kenig, held by the court, can only be returned to him, at his request, upon the conclusion of the action which was brought against him, and has now been temporarily suspended.

Vienna, December 29, 1898.

For the minister:

WELSERSHEIMB.

[Sub-inclosure.—Translation from the Polish.]

*Council of the I. R. Court of Zloczow.*

MAY 2, 1898.

Presiding judge, the I. R. president, Przyluski.

States attorney, Mlynarski.

Referent, I. R. secretary, Zubrzycki.

Votant, I. R. counselor, Ohanowicz.

In the matter of Aaron Kenig charged under paragraph 96 of the Criminal Law with abduction—the presiding judge requests the decision of the council upon the following points:

(a) Whether the money taken from the defendant and placed in the custody of the court shall be returned to him

(b) Whether the passport belonging to the defendant shall be returned to him.

Zloczow, May 2, 1898.

The chairman of the council:

PRZYLUISKI. [M. P.]

The council of the I. R. circuit court after hearing the argument of the State's attorney, reached the following decision:

(a) To hold for the present the money taken from the defendant and placed in the possession of the court.

(b) To return to the defendant at his request, upon the termination of the trial, the passport taken from him.

Grounds for this decision:

(a) Although the criminal action against Aaron Kenig has been postponed until such time as his whereabouts shall have been ascertained or he shall have been arrested, the possibility still exists that he may be convicted of the offense with which he is charged, and in that event the money taken from him may be ordered by the court to be used, either wholly or in part, in defraying the expenses of this suit, according to paragraphs 381, 387, and 388 of the Criminal Code; wherefore the court refuses the immediate return of the money to the defendant.

(c) As there appears to be no legal reason why the passport of the defendant should not be returned to him after the conclusion of the trial, the said passport will be delivered to him then at his request.

Zloczow, 2d May, 1898.

ZUBRZYCKI. [M. P.]

[Inclosure 15.]

*The Legation to the Foreign Office.*

UNITED STATES LEGATION,  
Vienna, January 6, 1899.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of the verbal note 7-64666, dated the 29th of December, 1898, in which was inclosed in answer to my request a copy of the order issued by the court at Zloczow, on the 2d of May, 1898, in regard to the case of Aaron Kenig, for which I beg leave to thank your excellency.

Aaron Kenig, an American citizen, was arrested at Szczakowa in December, 1897, upon a charge of violating the military laws of the



Empire of Austria, by attempting to assist an Austrian subject to cross the frontier without a lawful permit, and by furnishing to the said subject money with which to emigrate.

At the time of the arrest of the said Kenig his American passport, as well as the money which he had upon his person, amounting to a considerable sum, was taken from him by the police authorities of Szczakowa, and these have never been returned.

By the order of the Imperial and Royal Kreisgericht at Zloczow it now appears, however, that no steps have been taken in this case since the month of May, 1898, but that the money and the passport taken from Kenig are still held in abeyance by order of the court.

The reasons for this, as given by the honorable court in its said order, are—

(a) Although the criminal action against Kenig has been postponed until such time as his whereabouts shall have been ascertained or he shall have been arrested, the possibility still exists that he may be convicted of the offense with which he is charged, and in that event the money taken from him may be ordered by the court to be used, either wholly or in part, in defraying the expenses of this suit; wherefore the court refuses the immediate return of the money to the said defendant.

(b) As there appears to be no legal reason why the passport of the defendant should not be returned to him after the conclusion of the trial, the said passport will be delivered to him then at his request.

I beg leave to call your excellency's attention to the fact that this defendant is now in America, to wit, at his residence in Hartford, in the State of Connecticut, whither he proceeded soon after his arrest in 1897.

More than a year has elapsed since the occurrence of the offense with which he has been charged, and eight months have passed without any final judgment having been delivered in regard to it. He asks to have his money given back to him and his United States passport returned into his possession.

I beg therefore respectfully to request that justice be done to this American citizen without further delay, that his case be proceeded with immediately and a verdict rendered by the honorable court in accordance with the laws of the Empire; that both his passport and his money, or such portion of it as he may be found legally entitled to receive, be given back into his hands, and that the final disposition of this matter be held no longer in suspense.

I avail myself, etc.,

CHARLEMAGNE TOWER.

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*Mr. Hay to Mr. Herdliska.*

No. 213.]

DEPARTMENT OF STATE,  
*Washington, March 4, 1899.*

SIR: I have to inform you that Mr. Tower's dispatch, No. 116, of the 25th of January last, relative to the case of Mr. Aaron Kenig, who was arrested in Galicia upon a charge of aiding an Austrian subject to evade his military duty, has been received.

The Department approves of Mr. Tower's announced purpose to press for an immediate disposal of the case, and for the return in whole or in part of the money belonging to Mr. Kenig and now in the hands of the court at Zloczow.

In this connection the Department deems it proper to say that if

the action of the Austrian court in retaining the funds taken from Mr. Kenig with the object of defraying from them the cost of the proceedings against him in the event of his conviction is in accordance with Austrian law, as is alleged, the Department would not be disposed to contest the claim. Under our system of law the money would probably not be taken from one accused of such an offense upon his arrest, but it does not follow that such practice founded upon the law of a country is not proper and valid.

The Department will await the decision of the Austrian court in regard to the case.

I am, etc.,

JOHN HAY.

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*Mr. Herdliska to Mr. Hay.*

No. 134.]

UNITED STATES LEGATION,  
Vienna, March 4, 1899.

SIR: Supplementary to Mr. Tower's dispatch No. 116, of the 25th of January, 1899, reporting, according to instructions, upon the case of Aaron Kenig, a naturalized American citizen, who was arrested in Galicia upon the charge of aiding an Austrian subject to evade his military duty, and who was deprived by the Austrian authorities at Szczakowa, Galicia, at the time of his arrest of his money, consisting of about \$180, and his American passport, I have now the honor to report to you that I have received from the foreign office, in reply to the note dated the 6th of January, 1899, addressed to the Count Goluchowski, in which Mr. Tower asked that justice be done to this American citizen without further delay, an official note, dated the 2d of March, 1899—a translation of which is respectfully submitted herewith—in which the minister of foreign affairs informs me that a communication has been received by him from the Imperial and Royal ministry of justice of Austria announcing that the council of the circuit court at Zloczow, Galicia, at a session held on the 11th of February, 1899, decided, upon motion of the State's attorney, to withdraw the action brought against Aaron Kenig and to return to him the money and his passport which were taken from him.

I have, etc.,

CHARLES V. HERDLISKA.

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[Inclosure.]

*Foreign Office to Mr. Herdliska.*

Referring to the esteemed note of the legation of the United States of America of the 6th of January of the current year, No. 90, the Imperial and Royal ministry of foreign affairs has the honor respectfully to inform the chargé d'affaires ad interim of the United States, Mr. Charles V. Herdliska, that a communication has been received from the Imperial and Royal ministry of justice announcing that the council of the circuit court at Zloczow, at a session held on the 11th of February, 1899, decided, upon motion of the State's attorney, to withdraw the action brought against Aaron Kenig and to return to him the money and his passport which were taken from him.

Vienna, the 2d March, 1899.

For the Minister:

WELSERSHEMIL.

*Mr. Harris to Mr. Hay.*

No. 5.]

UNITED STATES LEGATION,  
Vienna, April 29, 1899.

SIR: Supplementary to Mr. Herdiliska's dispatch No. 134 of the 4th of March, 1899, reporting that the Austro-Hungarian Government had decided to withdraw the action brought against Aaron Kenig and to return to him the money and his passport which were taken from him, I have the honor to advise you that I have now received from the foreign office a note (a translation of which is respectfully submitted herewith) in which the ministry of foreign affairs sends to this legation, for proper disposition, the aforesaid money, consisting of 388 florins, 50 marks, 25 pfennigs, 1 ruble, 3 silver quarter-dollar pieces, and 1 silver dime piece, together with the aforesaid passport.

I accordingly transmit this money and the passport inclosed herein to you, and respectfully request that the Department may cause the same to be forwarded to Aaron Kenig at his address, No. 147 Front street, Hartford, Conn.

I have the honor to inform you also that I have advised Mr. Kenig of the decision of the Austro-Hungarian Government in his case, of the return by the foreign office of his money and passport to this legation, and of their transmission by this legation to the Department of State.

I have, etc.,

ADDISON C. HARRIS.

[Inclosure.]

*Minister of Foreign Affairs to Mr. Harris.*

Supplementary to the note of this ministry of the 2d ultimo, No. 10594, the Imperial and Royal ministry of foreign affairs has the honor to place at the disposition of the legation of the United States of America herewith the money, consisting of 388 florins, 50 marks, 25 pfennigs, 1 ruble, 3 silver quarter-dollar pieces, and 1 silver dime piece, together with his passport, taken from Aaron Kenig, and respectfully to request that a receipt for the same may be sent hither.

Vienna, 25th April, 1899.

For the minister:

WELSERSHEIMB.

*Mr. Hay to Mr. Harris.*

No. 19.]

DEPARTMENT OF STATE,  
Washington, July 14, 1899.

SIR: Referring to previous correspondence concerning the action of the Austro-Hungarian Government in arresting Mr. Aaron Kenig and taking his money and passport from him, I have to acknowledge the receipt of your despatch No. 5, of April 29 last, returning the passport and a certain sum of money for delivery to the claimant.

I enclose an original and duplicate receipt from Mr. Kenig for the money in question. You will transmit the original to the foreign office, and file the duplicate in your legation.

\* \* \* \* \*

I am, etc.,

JOHN HAY.

**MILITARY SERVICE—CASE OF JULIUS GRABER.***Mr. Tower to Mr. Hay.*

No. 107.]

UNITED STATES LEGATION,  
*Vienna, December 6, 1898.*

SIR: I have the honor to report to you, for your information, the case of Julius Graber, a naturalized citizen of the United States, who was arrested in Hungary for nonperformance of military duty and released upon the intervention of this legation in his behalf.

Julius Graber was born at Vag-Bestertze, in Hungary, on the 10th of November, 1868. He emigrated to America in the year 1891, after having served in the Austro-Hungarian army according to the conscription laws of the Empire, being at that time enrolled in the national reserve force, though not in active service and not under summons to perform active service. Having resided five years in Dayton, Ohio, Mr. Graber was admitted to citizenship in the United States by the probate court of Dayton, Ohio, on the 1st day of October, 1896.

He left America in June, 1897, to travel in Europe in the interests of his employers, the National Cash Register Company, having a passport, No. 1708, issued to him by the Department of State; and in the course of a short stay in Vienna, he decided to go to Hungary to visit the place of his birth. Upon putting this decision into effect, in August, 1898, he was arrested by the military authorities at Trensen, charged with being a deserter, and was condemned to an imprisonment of fifteen days. He then appealed to this legation for assistance, which was given to him immediately.

Representations were made in his behalf to the Austro-Hungarian ministry of foreign affairs, whereupon an official inquiry was instituted into the facts of his case with the result that Mr. Graber's American citizenship has been recognized and he has been freed from obligation to serve in the army of Austria-Hungary. The minister of foreign affairs has replied to this legation that Mr. Graber did not declare himself to be an American citizen at the time of his arrest, but that this fact now having been proved the entry of his condemnation to imprisonment has been erased from the military records in Hungary and his name stricken from the lists of those liable to perform military service. This exemption is to date from the day of his naturalization in the United States.

I have, etc.

CHARLEMAGNE TOWER.

**MILITARY SERVICE—CASE OF ERMINIO DEMARTINI.***Mr. Tower to Mr. Hay.*

No. 114.]

UNITED STATES LEGATION,  
*Vienna, January 18, 1899.*

SIR: I have the honor to report to you for your information the case of Erminio Demartini, an American citizen, whose name was inscribed until recently upon the military lists at Trieste as a deserter from the Austro-Hungarian army, but whose citizenship has now been duly recognized in consequence of the intervention of this legation, with the

result that the said Mr. Demartini has been freed from the charge of desertion brought against him and from all liability to perform military service within this Empire.

The facts of this case are as follows: Erminio Demartini was born in Brooklyn, N. Y., on the 7th of November, 1875. He was the son of Francesco Demartini, a native of Trieste, who emigrated to the United States and was admitted to citizenship there before the superior court of the city of New York on the 15th day of October, 1868. The said Erminio Demartini came to Austria at the age of 9 years in 1886, accompanied by his parents, and lived in the city of Trieste from the year 1886 to 1896. His father never returned to the United States, but appears to have come back to his native country with the purpose of spending here the rest of his days, and he did in fact remain in Trieste until his death, which occurred there in the year 1897. It does not appear, however, that he ever expressed an intention to abandon his American citizenship. The mother of the young man is still alive and residing in Trieste.

During the ten years of his residence with his parents at Trieste, Erminio Demartini was regarded by the local authorities as an Austrian subject, and in the course of time his name was entered upon the lists of those liable to perform military service in the Empire.

In the year 1896 he was summoned to appear as a conscript, but evidently, without offering to prove his right of exemption upon the ground of his American citizenship, he disregarded the summons and went to New York, whereupon he was declared to be in default and his name inscribed as a deserter from the Austro-Hungarian army.

The case was first brought to my attention by a letter dated the 16th of June, 1898, from Messrs. Hobbs & Gifford, attorneys at law, of New York City, who recited the facts relating to it, and informed me that Erminio Demartini now desires to visit Austria temporarily for the purpose of seeing his mother, but hesitates to do so unless relieved from the liability to be now held for service in the army. They requested me to make the proper representation to the Austrian minister of war, or other authority having jurisdiction, to the end that this young man may be officially relieved from his embarrassment and declared to be not subject to military duty in Austria in the event of his return and temporary sojourn in that country, if such a course should be consistent with your view of public duty.

As the letter of Messrs. Hobbs & Gifford did not present the necessary evidence as to the citizenship of the said Erminio Demartini, I replied to them on the 22d of July that, "in order that I may take the proper steps to carry out your request, I shall have to ask you to furnish me with an exemplification of the record (duly authenticated) of the naturalization of Francesco Demartini, the father, as also an affidavit by some disinterested person conversant with the facts as to the date and place of birth of Erminio Demartini, and his residence in the United States since that time."

This request having been complied with by Messrs. Hobbs & Gifford in their letter of the 19th of August, as will be seen by the copies of the correspondence hereto attached, and it having been shown by the exemplification of the record that Francesco Demartini was in fact admitted to citizenship in the United States of America, before the superior court of the city of New York, on the 15th day of October, 1868, and it having been further shown by the affidavits accom-

panying the documents that Erminio Demartini was born in Brooklyn in the year 1875, subsequently, therefore, to the naturalization of his father, I undertook the necessary proceedings for his relief by addressing to the Count Goluchowski, Austro-Hungarian minister of foreign affairs, the note dated the 18th of October, 1898, of which a copy is included in the correspondence herewith submitted.

I am now in receipt of a note from the Austro-Hungarian minister of foreign affairs dated the 14th of January, 1899, in reply to my communication, in which he informs this legation that, in view of the facts which I have presented to show that Erminio Demartini is to be regarded and treated as an American citizen, the provincial government of Trieste has been instructed by the ministry of national defense to take immediate steps to remove his name from the army lists.

I have notified Messrs. Hobbs & Gifford of this act of justice to their client, and have informed them that the case of Mr. Demartini has been duly reported by me to the Department of State.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

*Hobbs & Gifford to Mr. Tower.*

NEW YORK CITY, *June 16, 1898.*

DEAR SIR: Mr. Erminio Demartini, aged 23 years, is now a resident of the borough of Brooklyn, in the State of New York. He was born in the then city of Brooklyn on the 7th day of November, 1875, where his father and other members of his family then resided.

His father, Francesco Demartini, originally an Austrian subject, came to this country in about the year 1863, and was fully naturalized in the superior court of the city of New York in 1868.

In 1885 Francesco Demartini returned to Austria, taking the younger members of his family with him, including Ermie, and took up his residence at Trieste, leaving the two oldest children in the United States, where they have since remained, and now remain.

In March, 1896, Ermie, then residing with his father at Trieste, was inspected for service in the Austrian army, and having been passed as to his physical qualifications, was ordered to join the army in the following October. Ermie, claiming that he was a subject of the United States and not subject to compulsory military duty in Austria, did not report for service in the Austrian army, but came to this country in May, 1896, and since that time has been employed and domiciled in Brooklyn.

Within the last year his father has died at Trieste, and Ermie desires now to visit Austria temporarily for the purpose of seeing his mother, but hesitates to do so unless relieved from the liability to be now held for service in the army.

If, therefore, it shall satisfactorily appear that this young man is a subject of the United States, and consequently not liable to compulsory military service in Austria, we would respectfully ask your honor to make the proper representation to the Austrian minister of war, or other authority having jurisdiction, to the end that this young man may be officially relieved from his embarrassment and declared to be

not subject to military duty in Austria in the event of his return and temporary sojourn in that country, if such a course would be consistent with your view of public duty.

The matters of fact stated in this communication relating to the residence and naturalization in New York of Francesco Demartini, the father of Ermie, and the birth of the young man in this country after the naturalization of his father, are within the personal knowledge of the senior member of the firm making this communication, and these and other necessary facts are supported by the affidavit of the young man in whose behalf this application is made, which affidavit is herewith inclosed for your information.

It will afford us much pleasure to hear from the minister on the subject-matter of this communication.

Very respectfully, yours,

HOBBS & GIFFORD.

[Inclosure 2.]

*Mr. Tower to Messrs Hobbs. & Gifford.*

UNITED STATES LEGATION,  
Vienna, July 22, 1898.

DEAR SIR: I have duly received your letter of the 16th of June, in which you make the request that the case of Mr. Erminio Demartini be brought to the attention of the Austrian authorities and his name removed from the list of those liable to perform military duty within the jurisdiction of this Empire.

It appears that Mr. Demartini was born in Brooklyn, and is the son of Francesco Demartini, a naturalized citizen of Austrian birth. He was born subsequently to the naturalization of his father; but having come with the latter to Austria during his minority, and having lived in the city of Trieste several years, his name was inscribed there among those subject to military service. Mr. Demartini did not enter the Austrian service, but went back to the United States, and now resides in Brooklyn, he never having abandoned or intended to abandon his American citizenship. He wishes to return to Austria temporarily to make a visit to his mother at Trieste, his father having recently died, and the request made by you to this legation arises from his desire to come here without danger of incurring the inconveniences of arrest and detention upon the charge of being a deserter from the Austrian army.

As far as I understand this case, Mr. Demartini was never liable to military service here.

In order that I may take the proper steps to carry out your request I shall have to ask you to furnish me with an exemplification of the record (duly authenticated) of the naturalization of Francesco Demartini, the father, as also an affidavit by some disinterested person conversant with the facts as to the date and place of birth of Erminio Demartini, and his residence in the United States since that time.

Once in possession of these documents I shall endeavor to establish here Mr. Erminio Demartini's right to enjoy all the privileges that he may be entitled to under our treaty as an American citizen.

I am, etc.,

CHARLEMAGNE TOWER.

[Inclosure 3.]

*Messrs. Hobbs & Gifford to Mr. Tower.*NEW YORK, *August 19, 1898.*

DEAR SIR: We have duly received your esteemed favor of July 22 last in answer to ours of June 16 relating to the case of Mr. Erminio Demartini, who desires to be relieved from the liability to serve in the Austrian army upon the ground that he is an American citizen and not liable to such service.

As requested by you, we now send you an exemplified copy of the naturalization papers of Mr. Francesco Demartini, the father of Erminio, and we also forward several affidavits which, we suppose, establish the necessary facts as a basis for your application to the proper Austrian authorities, the copies of the naturalization papers and the affidavits being so authenticated as to make them available for use in the Austrian Empire.

You will be good enough to accept our thanks for your courtesy in this matter and to permit us to express the hope that you may be able to give it still further attention.

Yours, very truly,

HOBBS &amp; GIFFORD.

[Inclosures.]

1. Authenticated copy of the certificate of naturalization of Francesco Demartini issued to him by the superior court of the city of New York (now the supreme court of the State of New York, first judicial district) on the 15th day of October, 1868.

2. Affidavit of James Divisich, of the city of New York, N. Y., as to the American citizenship of Francesco Demartini.

3. Affidavit of Henry P. Berti, of the city of New York, N. Y., as to the American citizenship of Francesco Demartini.

4. Affidavit of Edward H. Hobbs, of New York City, N. Y., as to the American citizenship of Francesco Demartini and his son, Erminio Demartini.

5. Affidavit of Erminio Demartini, of the city of New York, N. Y., as to his own as well as his father's American citizenship.

[Inclosure 4.]

*The Legation to the Foreign Office.*UNITED STATES LEGATION,  
*Vienna, October 18, 1898.*

YOUR EXCELLENCY: Representations have been made to this legation on behalf of Mr. Erminio Demartini, a citizen of the United States of America, who declares that his name is carried upon the list of persons liable to be called to perform military service in the Imperial and Royal Army of the Austro-Hungarian Empire.

The facts of the case are as follows: The said Erminio Demartini was born in the city of Brooklyn, in the State of New York, on the 7th day of November, 1875; he was the son of Francesco Demartini, now deceased, a native of Trieste, who emigrated to the United States, and who was admitted to citizenship before the superior court of the city of New York the 15th day of October, 1868, as is shown by the records of the said court. Under the laws of the United States, therefore,



Mr. Erminio Demartini is a citizen of the United States, he having been born and having resided within the jurisdiction of the United States subsequently to the naturalization of his father.

The said Erminio Demartini came to Austria with his father in the year 1886, and remained at Trieste until 1896, when he returned to his home in America. He is now in Brooklyn, in the State of New York, where he resides.

Mr. Demartini declares that during his visit to Trieste, above referred to, his name was placed upon the military lists there, and that it has never been stricken off, although he has in fact never been liable to military duty in Austria. He further declares that he is desirous of making a visit to his mother, who still remains in Trieste, but fearing an arrest upon a charge of desertion through the erroneous inscription of his name upon the military lists, if he should come within the Austrian jurisdiction, he has appealed to this legation for relief.

I have the honor to request that your excellency will have this subject examined into by the proper authorities, and if the facts prove to be true as they have been here presented, that the name of this American citizen may be removed from the lists of those liable to perform military service within the Imperial and Royal Empire.

I avail myself, etc.,

CHARLMAGNE TOWER.

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[Inclosure 5.]

*The Legation to Messrs. Hobbs & Gifford.*

UNITED STATES LEGATION,  
Vienna, October 18, 1898.

DEAR SIR: I have duly received your letter of the 19th of August with an exemplified copy of the naturalization papers of Francesco Demartini and the affidavits relating thereto, which you inclosed in it.

At your request I have presented the case of Mr. Erminio Demartini to the Austro-Hungarian ministry of foreign affairs, and have asked that his name shall be stricken from the military lists at Trieste, on the ground that as an American citizen he is not liable to perform military duty within the Empire.

Cases of this kind require considerable time in Austria. It may be several months before a reply is sent to this legation. I shall notify you, however, immediately upon its receipt.

I am, etc.,

CHARLEMAGNE TOWER.

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[Inclosure 6.—Translation.]

*The Austro-Hungarian Foreign Office to the Legation.*

In reference to the esteemed note No. 82 of the 18th of October, 1898, the Imperial and Royal ministry of foreign affairs has the honor to inform the legation of the United States of America that, according to an investigation undertaken by the Imperial and Royal ministry of national defense, it appears that Erminio Demartini, who was born

in 1875 and is now residing in Brooklyn, was actually placed upon the list of those liable to military duty in the city of Trieste, and that he was summoned there as a conscript on the 2d of March, 1896, and proclaimed a deserter from the Ninth Regiment of the Imperial and Royal artillery division.

The chief cause of this proceeding was that Erminio Demartini himself never offered an objection to being treated as an Austrian subject liable to military service, and the city magistrate of Trieste had no knowledge of the fact that Francesco Demartini, formerly residing in Trieste and now deceased, had been admitted to citizenship in the United States of America prior to the birth of his said son.

Now that Erminio Demartini is to be regarded and treated, however, as an American citizen, as appears from the esteemed note above referred to, the provincial government of Trieste has been instructed by the ministry of national defense to take immediate steps to remove his name from the army lists, according to the provisions of articles 1 and 6 of paragraph 56 of the Army Laws, Part II.

Vienna, January 14, 1899.

For the minister:

WELTERSHEIMB.

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[Inclosure 7.]

*The Legation to Hobbs & Gifford.*

UNITED STATES LEGATION,  
Vienna, January 17, 1899.

DEAR SIR: I have the pleasure of informing you that, upon the intervention of this legation the Government of Austria-Hungary has recognized the American citizenship of your client, Mr. Erminio Demartini, and has ordered his name to be stricken from the list of deserters from the Austro-Hungarian army at Trieste.

Mr. Demartini's case has been duly reported by me to the Department of State at Washington.

Very respectfully, yours,

CHARLEMAGNE TOWER.

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# KILLING OF AUSTRO-HUNGARIAN SUBJECTS AT LATTIMER, PA.<sup>1</sup>

*Baron von Riedenau to Mr. Hay.*

No. 732.]

IMPERIAL AND ROYAL  
AUSTRO-HUNGARIAN LEGATION,  
Washington, April 28, 1899.

MR. SECRETARY OF STATE: As I had the honor to inform you on the 11th of February last, I laid your note of the 4th of that month, relative to the awarding of a suitable indemnity to the families of the victims of the catastrophe at Lattimer-Hazleton, before my Government. My Government has most carefully examined the reply communicated by the aforesaid note in a thoroughly impartial manner, but after an

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<sup>1</sup>See Foreign Relations 1898, p. 46.

attentive study thereof has, to its regret, reached the conclusion that the reply of the Federal Government (which, on the basis of its views concerning the facts and the law in the case, reaches the conclusion that our demand for an indemnity must be rejected as unwarranted) is such, both in its nature and especially in regard to the grounds alleged, that we are unable to accept it, and consequently can not consider the case as having been thus settled.

Immediately after the unfortunate occurrence of September 10, 1897, we informed the United States Government of the investigation concerning the disaster at Lattimer, which had been held on the spot by our representatives by taking a number of sworn depositions of disinterested and impartial eyewitnesses, and on the basis of the result of that investigation we requested the Government of the Union to order an accurate investigation of the facts *in its turn*, and (*eventuellement*) to grant a suitable indemnity to the Austrian and Hungarian subjects who had been killed or wounded in consequence of the disturbances at Lattimer, or to their families.

The United States Government, which answered our first communication to it with the prompt assurance that the matter would be carefully investigated, as its importance demanded, nevertheless did not send us any communication until some time had elapsed, and, in the communication which it then sent, it confined itself to informing us of the inquiries made by the governor of Pennsylvania, and declared that it would await the result of the trial of Sheriff Martin and his deputies before taking a positive attitude with regard to the question of indemnity.

After a further lapse of time, during which the trial took place at Wilkesbarre, the United States Government, without adding a single word of its own, sent us the report which had been made by the delegate of the Federal Government who had been sent to attend the trial. Finally, the esteemed reply of the Department of State, of February 4, 1899, was received by us.

In that reply the Federal Government points out the facts of the case merely by referring to the result of the trial, and, in connection therewith, expresses certain views as to the principle involved, on which it bases its rejection of our claims.

This treatment of the case by the United States Government may be viewed from the standpoint which we took from the outset in relation to the matter.

We have maintained since this case has occupied our attention, that, after the positive result of the investigation held by us, the action of the American officers at Lattimer, whereby a number of our countrymen were either killed or severely wounded, is of such a nature as, from an international point of view, to furnish a basis for a claim from the responsible American authorities for an indemnity to the victims of an offense committed by State officers. In accordance with this view, it was claimed by us both before the trial of Sheriff Martin and the deputies and afterwards that, as regarded our demands, the proper thing to be done was to determine whether the sheriff and his men, in their capacity as public officers, had acted in such a manner as to render themselves guilty of a violation of duty, or at least of overstepping the bounds of their powers, and whether an injury had been the outgrowth thereof, and if so, that we must hold the Government that was answerable therefor, and (since in the present case foreign

subjects were concerned) that we must hold the Federal Government responsible for an indemnity. We claimed this whether Sheriff Martin and his deputies were or were not found guilty of the crime of murder with which they were charged.

That this view of ours was not regarded by the Federal Government as one that was to be rejected by it at the outset is shown beyond a doubt by the fact that *after* the acquittal of the sheriff and his deputies by the jury at Wilkesbarre, Mr. Day, then Secretary of State for Foreign Affairs, declared that he still considered this question an open one.

In accordance with the attitude taken by us, we informed the United States Government of the result of the investigations held by us concerning the occurrences at Lattimer, and, as a necessary consequence thereof, asked for a careful investigation of the case by the Government.

This request of ours was not complied with, and all that is alleged by the Federal Government in its final reply with regard to the facts (without going into a critical refutation of the facts presented by us as the result of our inquiries) is based solely upon the facts as elicited in the courts of the trial of Sheriff Martin and his deputies.

The object of the prosecution in the elicitation of the facts at the trial could, of course, be simply to show by the aid thereof that Sheriff Martin and his deputies were guilty of the crime of murder with which they were charged.

On the part of the defense, on the other hand, the object had in view was necessarily to show, by the testimony of the witnesses who were produced for the defense, that there was no legal evidence that murder had been committed, so as to secure the acquittal of the accused persons of the crime with which they were charged.

No importance, however, was attached by anyone to showing (and this is of the highest importance as regards our claim) whether any offense had been committed by the public officers in the performance of the official duties with which they were charged in one way or another—any offense, I say, which, outside of the trial and independently thereof, must be followed by consequences.

An examination of the facts from this latter point of view was, however, in the present case, the more necessary, since, as regards the conduct of the criminal proceedings, the Department of State does not hesitate to admit that while there was no interference with the performance of the duty of the judges and juries, still, in the general feeling of the country, an excitement was manifested which gave rise to an unmistakable prejudice, although, it is added, such prejudice "can not be justly characterized as prejudice in the judicial sense of that term."

We thus stand facing the fact, on the one hand, that a thorough investigation of the case, the result of which would have deprived our investigations of all their force, was not held by the Federal Government; and, on the other hand, we stand facing the verdict of a jury which was not wholly uninfluenced by human feelings and considerations. We can therefore by no means reach the conviction that the facts presented by us have lost their weight, and that by the sentence which was pronounced a decision was reached which positively settles this question so far as we are concerned; still less can we admit that this decision was one that excludes diplomatic negotiations in the case.

Under these circumstances we can not do otherwise than establish

the facts already stated by us and confirmed by a series of depositions, which facts have not yet been refuted, and which are as follows:

The workmen who took part in the procession from Harwood to Lattimer September 10, 1897, were unarmed and had no intention of resorting to deeds of violence; they were, on the other hand, determined to do everything in their power to furnish evidence of the peaceable character of their march.

Sheriff Martin, whose order not to march through West Hazelton had been quietly obeyed by the men, did not, on his second meeting with them near Lattimer, exhaust all means of peaceably asserting his authority. So far from this having been done, fire was opened on unarmed and defenseless people. They broke and ran at their first shot, without offering any resistance, but the fusilade was continued for several minutes while they fled, and until the last cartridge in the magazine guns of the deputies had been used.

From these facts, which show that the victims of the disturbance at Lattimer had been guilty of no act of violence or insurrection against the lawful authorities that could justify the severity which was used against them, the conclusion is inevitable that action was taken by the armed police force which was not justified by the circumstances; that the sheriff and his deputies acted illegally and exceeded their powers, and that their acts were the cause of the disaster, and hence is to be drawn the inference that the United States is responsible for the injury thus done to our countrymen, for which no redress has thus far been furnished.

That this view of ours is by no means strange in international law is sufficiently shown by the statements of W. E. Hall, one of the most recent authorities in matters of international law, who in his *Treatise on International Law*, Article II, chapter 4, page 26, expresses himself as follows as regards the responsibility of a State for acts committed by its naval and military administrative officers:

\* \* \* Its administrative officials (i. e., those of the State) and its naval and military commanders are engaged in carrying out the policy and the particular orders of the Government, and they are under the immediate and disciplinary control of the Executive. Presumably, therefore, acts done by them are acts sanctioned by the State, and until such acts are disavowed and until, if they are of sufficient importance, their authors are punished, the State may fairly be supposed to have identified itself with them. Where, consequently, acts or omissions which are productive of injury, in reasonable measure, to a foreign state or its subjects are committed by persons of the classes mentioned, *their government is bound to disavow them and to inflict punishment and to give reparation when necessary.*

Easy as it would be to supplement the facts already stated by additional facts which were brought to light at the trial (said additional facts having reference to the legality of the whole proceedings of the sheriff, and being calculated to throw a characteristic light thereon) no attempt will here be made to do so, inasmuch as the result of our own investigations is sufficient to exhibit the facts exhaustively.

No attempt, therefore, will here be made to ascertain whether the formation of the posse comitatus by the sheriff was according to law, whether he himself was legally authorized to stop the peaceful march of the strikers to Lattimer, and no lengthy consideration will be given to the remarkable phenomenon that Sheriff Martin, who was, it is said, surrounded by the alleged riotous crowd at the critical moment and thrown upon his knees, whereupon two men pointed their revolvers at him, while a third stood before him with a drawn knife, and is even

said to have struck at him with that weapon, came out of the affair wholly uninjured.

Without attempting to cast any further light upon the facts as they were laid before the Federal Government on the basis of our investigation, the reply of the State Department contents itself in the main with mentioning the depositions of the witnesses both for the prosecution and the defense—i. e., with reproducing the report made by Mr. Hoyt, the delegate of the Federal Government at the trial, and with then referring to the verdict rendered in the case, which is characterized as a just one.

Although we can not recognize this portion of the note of the State Department, which is devoted to considering the facts, as a refutation of the facts presented by us, inasmuch as the statements contained in the aforesaid reply of the Department which relate to this matter, and which are limited to the directions above pointed out, do not amount to a *de facto* refutation, still the considerations and conclusions reached by the United States Government in connection with the result of the trial, call for a series of remarks which show the controvertibility of said considerations and conclusions.

Four fundamental thoughts appear from the statements of the Federal Government, on which this legal argument is chiefly based, which argument culminates in the conclusion that it can not recognize the legitimacy of the claim presented by us.

In the first place, the rule is laid down that the responsibility of a government toward aliens does not extend any further than toward its own citizens or subjects, and that aliens can claim no more favorable treatment than natives can.

The legitimacy of this position can not be thus generally admitted.

It follows from the idea and the nature of sovereignty, on the one hand, and from citizenship on the other, that the supreme power of the State embraces the legal personality of all individuals who belong to the State exclusively and entirely, and that, vice versa, the individual is unconditionally subject to the State to which he belongs in all matters that concern his legal existence. Whatever the State orders to be done in legal form to its own subjects is juridically "right." The case is otherwise with the alien.

Although he is without a doubt subject to the laws of the country of his abode as soon as he sets foot on foreign soil, still he is not obliged to suffer absolute wrong. On that point the situation of an alien is quite different from that of a native citizen, for behind him stands international law and the State, whose duty it is to protect him, even beyond its own borders.

By a manifest wrong, however, committed against a foreign subject, not only the individual, but in him the foreign State is wronged, and consequently has a right to seek redress.

Thus Andres Bello, a not very recent author, who is so highly esteemed in America, says in his *Principles of International Law*, page 82:

The jurisdictional acts of a nation over aliens residing in its territory must be respected by other nations, because when we set foot on the soil of a foreign State we incur \* \* \* the obligation to submit to its laws, and consequently to the rules which it has established for the administration of justice. The State, however, likewise incurs the obligation to observe the same as regards the alien, and in case of a palpable infraction the injury that is done to him is an injury done to the society of which he is a member.

In the same sense, Franz von Listz says in his *International Law*, which appeared in the year 1898, page 126:

Any violation of international duty is an injury done to a State. That State, however, may be injured not only directly \* \* \* but indirectly in its subjects or citizens and its protégés.

The second principle on which the arguments of the State Department are based is that aliens in general have no claim to indemnity for damages resulting from the necessity of watching over the public safety and welfare, especially if they take part in an insurrection or in a civil war. When the United States Government rests its case, in this connection, on the principles of law which govern the question of the duty of governments to pay indemnity in case of an insurrection or civil war (in another part of its note it says, with reference to the present case: "This Government can not tolerate a state of anarchy, either threatened or inaugurated"), it bases its action on the supposition that the circumstances which prevailed at Lattimer and in the vicinity on and about September 10, 1897, must be considered as a civil war, or at least as an insurrection.

Although it may be admitted as a general rule that, according to the prevailing doctrine of international law, it is not the duty of a government to pay indemnity for damages that have accrued to foreign subjects or citizens from an insurrection, attention must be called to the fact that this principle is not recognized generally, and without exception, and that Alphonso Rivier, the very authority on international law whom the State Department quotes in support of its international assertions, considers in his *Principles du Droit des Gens*, volume 2, page 43, that, in case an indemnity of aliens can be obtained through the intervention of their Government, such an indemnity is based upon right. "An obligation *quasi ex delicto*," it is said there, "which is of considerable importance, is that which is incumbent upon the State by reason of damage done to the subjects of another State by a civil war, an insurrection, or a riot." It is alleged, in order to deny the existence of this obligation, that an alien who is settled in the territory shall not be treated better than a native. This is true in principle; but if the native suffers from the disorder that prevails in the country, it is because he has not the means of securing indemnity.

"Why should an alien be obliged to suffer likewise, if his State, taking his cause in hand, has the means to compel the other to indemnify him?"

Laying the question wholly aside whether a government is or is not bound to pay indemnity in case of internal disturbances, it can not be admitted that, in connection with the occurrences at Lattimer, a civil war or an insurrection can properly be spoken of, and thus all conclusions that might be drawn from these inadequate premises must lose all their force.

It is possible to speak of civil war as an internal state of war only when there has been an uprising, "thus, when the existing Constitution is positively rejected, and recourse is had to arms, whether the contest that arises concerns the existing form of government or the existing principles of government."

Civil war thus offers an essentially political condition of facts, and a disturbance can never be considered as civil war if "recourse is had to armed force against authorities or governmental acts with a view to compelling certain acts or omissions on the part of the authorities of the State."

Just so the political purpose, and especially the de facto suspension, of the authorities of the State must be regarded at a given moment as decisive criteria of an insurrection. (See F. von Martiz, International Redress in Penal Cases, p. 283, et seq.)

It seems wholly incompatible with the essential characteristics of civil war and insurrection here mentioned—nay, it seems wholly impossible to include that which took place at West Hazelton and Lattimer on the 10th of September, 1897, and the following days in the two above-named categories. That the strikers of Harwood had no political object in view in their march to Lattimer, and had no intention save that which they are said to have characterized by the words placed in their mouths by the witnesses for the defense viz, "Stop Lattimer mines," can not be disputed any more than can the fact that there can be no question of a suspension or a refusal of the power of the State to act, since that power was unfortunately quite too strongly asserted, and in our view in an unjustifiable manner.

In continuation of its deductions the Department of State remarks that the Government can not admit that, in the present case, legal injustice has been done. Even if it were to be conceded that the sheriff and his deputies acted unlawfully—which has not been proved—still, the remedy by way of diplomatic intervention can not be invoked until all remedies have been exhausted before the ordinary judicial tribunals, which remedies in this case are abundantly afforded.

In connection with this assertion the final fundamental view is expressed that, in this case, there has been no denial of justice on which diplomatic intervention could be based, because a careful investigation of the rulings of the court at the trial and of the instructions to the jury show they were characterized by ability, learning, integrity, and impartiality, in addition to which the remark already quoted is made that, although there was a certain degree of excitement in the community in which the strike occurred, it can not be justly characterized as prejudice in the judicial sense of that term.

These arguments can not be considered as cogent.

There is a denial of justice, not only when a well-founded legal claim, preferred by the competent authorities, does not receive attention, but there is, in principle, a denial of justice when, in any particular case, a decision is pronounced which is evidently in contravention of right, even if the case had been conducted in such a way that all legal forms have been accurately and strictly observed.

If the case arises, in one way or another, of a de facto denial of justice, then, since the making of reprisals (which was originally closely connected therewith as the immediate consequence of a denial of justice) has now ceased to be the usual way of immediately answering such denial, then, I say, the State which considers that there has been a denial of justice is undoubtedly authorized to use its intervention, diplomatically, with the foreign State concerned in order to secure redress for the wrong that has been done.

In corroboration of these statements, reference may be made to Hugo Grotius, *De Jure Belli ac Pacis*, book 3, chapter 11, where we find the following words:

Another kind of forcible execution is the *ἐν ἐχϋρᾷδιος*, or the taking of a pledge (security) among the various peoples, which the more recent jurists call the right of reprisals \* \* \* There is ground for this, as the jurists say, when right is denied.

This is understood to be the case, not only if judgment against a guilty person or a debtor can not be obtained within a reasonable time, but also if, in a case that is in



no way doubtful, \* \* \* judgment be rendered evidently against right, for the authority of the magistrate pronouncing judgment has not the same weight in the case of aliens that it has in that of the subjects of the Government.

The majority of recent authors agree with Grotius; thus, for instance, A. W. Heffter, in his book entitled "European International Law of the Present Day," section 103 a, says:

There is a denial of justice when a well-founded legal claim is not recognized or executed by the competent authorities, either judicial or executive, \* \* \* and also when no redress is secured by the highest authority in the State.

The effect of a denial of justice which has been proved consists in the obligations of the State which is bound to afford redress to furnish due satisfaction to the party who has been wronged at the instance of his Government.

In further corroboration of this principle special passages may be quoted from the writings of American statesmen, viz, Mr. Forsyth, Secretary of State, to Mr. Semple, February, 1839, MSS. Inst. Colombia; Mr. Fish, Secretary of State, to Mr. Foster, December 16, 1873, MSS. Inst. Mex.; Mr. Bayard, Secretary of State, to Mr. McLane, June 23, 1886, MSS. Inst. France, which latter again refers to Phillimore, Int. Law, and to Sir Travers Twiss, Law of Nations.—Wharton, A Digest of the International Law of the United States, vol. 2, Chap. IX, sec. 230.

As to the statement that in the present special case abundant remedies are afforded for redress, among which remedies the Federal Government evidently had in mind the bringing of a civil action for damages, the answer may be made that the result of the trial held and the fact that at that trial the action of the sheriff and the deputies was in nowise censured must render all claims for damages by the parties concerned, by means of a civil action, almost entirely hopeless from the very outset, and that the men are scarcely in a position to defray the expense connected with such steps.

Finally, as regards the assertion made in this connection that the illegality of the sheriff's course has not been shown, attention may once more be called to the fact that the trial which was held, at which only the charge of murder was considered, can not furnish a standard for the consideration of the question of the legality and propriety of the action of the sheriff and the deputies, but that we must insist that until proof to the contrary shall be furnished the illegality of the action of the sheriff and his men appears to have been shown by the evidence collected by us and laid before the American Government.

It is readily seen from the foregoing statements that we can not consider the view taken by the Department of State in its note of February 4, 1899, as conclusive, and that we must consequently again bring our claim to the attention of the United States Government, both from our original point of view and also on the basis in which it now thinks proper to rest its case. We must leave it to the friendly feelings of the Federal Government to reconsider the case in the light of the considerations presented by us and to adopt such a decision as it may think proper.

In case the new appeal which we hereby make to the sense of justice and equity of the United States Government shall not succeed in causing it to deviate from its present attitude we propose that the difference between us shall be submitted to a court of arbitration for settlement.

Inasmuch as the case in question is not of a territorial character, and

is not a question of political power, but as the difference of opinions merely relates to the legal view taken of the case, the matter seems to be a very proper one for submission to court of arbitration in order that the two Governments may reach an agreement without in any way sacrificing their dignity.

It may the more confidently be assumed that the United States Government will not hesitate to accept this proposition, since it has always made more earnest efforts than have other powers to pave the way for the acceptance of the doctrine, on a liberal scale, of the settlement of international disputes by arbitration, and since the states of Europe are just now seriously considering the question of bringing this doctrine nearer to its practical realization.

In having the honor, Mr. Secretary of State, to bring these considerations of my Government (in pursuance of instructions received) to your notice, I avail myself of this additional occasion to renew to you the assurance of my most distinguished consideration.

RIEDL.

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*Mr. Hay to Baron von Riedenau.*

No. 277.]

DEPARTMENT OF STATE,  
*Washington, June 11, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of April 28 last, in relation to the claim for indemnity preferred by the Austro-Hungarian Government in behalf of its subjects who were involved in the unfortunate strike at Lattimer and Hazleton.

I have not failed to give to the arguments adduced and to the proposition of arbitration made in said note the most careful consideration, due to the importance of the subject, and especially due to the feeling of traditional friendship which has ever existed between the two Governments and which it is the earnest desire of the President further to maintain and strengthen. If upon consideration of the arguments contained in said note I could find any sufficient grounds for modification or reversal of the decision heretofore reached by the United States Government, I should not hesitate to do so, but without pausing to review said arguments in detail and to point out what I believe to be grounds of error, in statements of fact or in the application thereto of principles of law, I may be permitted to say that I have found nothing to alter the conviction of the Government of the United States that the case is not one for diplomatic intervention.

The parties have a resort to the courts for the recovery of damages if any have been unlawfully occasioned, and this remedy has no tever been invoked.

This Government is convinced that said strikers were engaged in acts of lawlessness and that any injuries inflicted were sustained by them in resisting the lawful efforts of the local authorities to keep the peace.

While the Government of the United States has been a conspicuous advocate of the principle of arbitration, where properly applicable, it is not believed that it applies in a case which, on the facts and on principles of public law, seems to this Government to be without foundation in justice. The maintenance of internal law and order is of sovereign concern to the Government of the United States; and while,

out of consideration for the Government of His Imperial and Royal Majesty, this Government would be pleased to defer much to His Majesty's wishes and feelings, I regret that it is unable to do so in this case by consenting to the arbitration of a claim which, in any form, is believed to be inadmissible.

Accept, etc.,

JOHN HAY.

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*Mr. Hengelmuller to Mr. Hay.*

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,  
*Bar Harbor, August 10, 1899.*

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note of June 11, 1899, No. 277, relative to the case of the Austrian and Hungarian subjects who were killed or injured on the occasion of the strike near Lattimer, in September, 1897, of the workmen employed in the Pennsylvania coal mines, and to inform you that its contents have been brought to the notice of my Government.

As regards the statements made in said note, it only remains for the Imperial and Royal Government to express its regret that the negotiations held in this matter have not resulted in a compromise between the standpoint taken by it and that taken by the Federal Government, and that the latter has not accepted our proposition to refer the existing difference to a court of arbitration for decision.

I avail myself, etc.,

HENGELMULLER.

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**DUTY IN AUSTRIA ON SALT IN WHICH MEATS ARE PACKED.**

*Mr. Hay to Mr. Tower.*

No. 199.]

DEPARTMENT OF STATE,  
*Washington, January 25, 1899.*

SIR: I inclose for your information copy of a letter from the Secretary of Agriculture relative to the complaint of the Cudahy Packing Company, of South Omaha, Nebr., that the Austrian Government is enforcing a new ministerial decree which exacts the payment of duty on the salt in which meats are packed in addition to the duty collected on the meats themselves.

You are instructed to investigate the matter promptly and to report the result to the Department.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Wilson to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,  
*Washington, January 17, 1899.*

SIR: I have the honor to inclose for your information copy of a letter just received from the Cudahy Packing Company, South Omaha,

Nebr., stating that the Austrian Government is enforcing a new ministerial decree exacting the payment of duty on the salt in which meats from the United States are packed in addition to the duty collected on the meats themselves.

I invite your attention to this in order that, if you deem it advisable, you may make proper representations to the Austrian Government for relief from this burdensome requirement.

I have, etc.,

JAMES WILSON,  
Secretary.

[Subinclosure.]

*The Cudahy Packing Company to Mr. Wilson.*

SOUTH OMAHA, NEBR., *January 10, 1899.*

DEAR SIR: Our agent in Trieste, Mr. Silvio Liebman, writes us under date of December 23 as follows:

Yesterday a new ministerial law came into force here, enacting the payment of duty also on the salt in which all meats and fat backs coming from the United States are packed, and this for the protection of the Hungarian trade in these products. Previous to this it was allowed to remove the salt in the dock warehouses and pay duty only on the fat backs, etc., but now duty must be paid on the goods and the salt as they arrive. This will naturally make a difference of about 2/ per 100 kilos for buyers, and is, hence, an impediment to business with your country in these products. It would therefore be important and in the interest of business to ship all meats with as little salt as possible during the winter months; and I shall thank you to give your careful attention to this important matter.

Our agent also writes that he thinks that friendly pressure might be brought to bear by our Government upon the Austrian authorities, through the Austrian minister at Washington, to induce the Austrian Government to abolish this exaction, and to permit the goods to be entered as heretofore.

Yours, respectfully,

THE CUDAHY PACKING CO.,  
GEORGE MARPLES.

*Mr. Herdliska to Mr. Hay.*

No. 126.]

UNITED STATES LEGATION,  
*Vienna, February 15, 1899.*

SIR: I have the honor to acknowledge the receipt of your dispatch to Mr. Tower, No. 199, of the 25th of January, 1899, inclosing for the information of this legation a "copy of a letter from the Secretary of Agriculture relative to the complaint of the Cudahy Packing Company of South Omaha, Nebr., that the Austrian Government is enforcing a new ministerial decree which exacts the payment of duty on the salt in which meats are packed in addition to the duty collected on the meats themselves."

In obedience to the instruction contained in this dispatch, "to investigate the matter promptly and to report the result to the Department," I have this day, after having previously had a conference upon the subject with the Count Welsersheimb, first assistant sec-

retary of the ministry of foreign affairs, at which I was assured that the matter would be promptly investigated, addressed to the Count Goluchowski, Imperial and Royal minister of foreign affairs, a note, a copy of which is respectfully submitted herewith, in which, after having set forth the complaint made by the Cudahy Packing Company to the Secretary of Agriculture, I have submitted that, "as the pork packers of America consider this decree a hardship, amounting almost to a prohibition of the import into Austria-Hungary of American meats," I respectfully request that your excellency may cause this matter to be investigated, to the end that this unjust exaction may be abolished and American meats be permitted to enter the Austro-Hungarian Empire under the conditions heretofore existing.

As soon as a reply is received from the Austro-Hungarian Government upon this subject I shall at once communicate the same to the Department.

I have, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad Interim.*

[Inclosure.]

*Mr. Herdliska to Count Goluchowski.*

UNITED STATES LEGATION,  
*Vienna, February 15, 1899.*

YOUR EXCELLENCY: A complaint has been made to the Department of State at Washington, through the Secretary of Agriculture, by the Cudahy Packing Company of South Omaha, Nebr., to the effect that a new ministerial decree is being enforced by the Imperial and Royal customs authorities at Trieste which exacts the payment of duty on the salt in which the meats from the United States are packed, in addition to the duty collected on the meats themselves.

It is the practice of American pork packers to pack the meats intended for export in a large quantity of salt in order the better to preserve them during transit.

This salt is a coarse mixture of saltpeter and sea salt, and is termed "Conservierungssalz." It is packed around each piece of meat separately and also between the layers of meat, which is contained in strong cases, the weight of a packed case being about 250 kilograms.

In the process of transportation the salt which has been thus placed around and between the meat becomes shaken to the bottom and sides of the cases.

Now, what these American meat shippers above referred to complain of is that the Imperial and Royal customs officers gather up this loose salt which falls out when the cases are opened and charge duty upon it, the same as if it were meat.

Heretofore, the complainants state, it has been the practice of the Imperial and Royal customs officials to disregard this superfluous packing salt and duty has been levied only on the meat itself; but now these officials levy the duty not only on the meat, but also on this worthless salt, treating it as if it were meat.

As the pork packers of the United States of America consider this decree a hardship, amounting almost to a prohibition of the import into Austria-Hungary of American meats, I respectfully request that

your excellency may cause the matter to be investigated to the end that this unjust exaction may be abolished and American meats be permitted to enter the Austro-Hungarian Empire under the conditions heretofore existing.

I avail myself, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad Interim.*

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*Mr. Hay to Mr. Harris.*

No. 9.]

DEPARTMENT OF STATE,  
*Washington, April 13, 1899.*

SIR: Referring to the Department's instruction to your predecessor, No. 199, of the 25th of January last, relative to the report that the Austrian Government is enforcing a new ministerial decree which exacts the payment of duty on the salt in which meats are packed, and also with regard to Mr. Herdliska's note of February 15 last, bringing the complaint of the Cudahy Packing Company of South Omaha to the attention of the Austro-Hungarian foreign office, I inclose for your information copy of a letter from the Secretary of Agriculture, in which that officer states that it appears that the Austrian authorities are multiplying the obstructions to the entry of our products into that country.

You will observe that Mr. Wilson, in view of the facts above stated, expresses the opinion that it might be well if our legation at Vienna were instructed to intimate in a diplomatic way that there is a growing impression that the products of this country are discriminated against in Austria, and that if these discriminations continue our Government may, much against its wishes, find it necessary to apply more stringent regulations and more rigid inspection to goods imported from Austria-Hungary.

In this connection I inclose for your information copy of the act of Congress<sup>1</sup> approved March 1, 1899, which authorizes the Department of Agriculture to make inspection of imported goods in certain cases.

In case an unfavorable reply shall be made to Mr. Herdliska's note, you may express in reply, in discreet terms, the hope entertained by this Government that no action will be taken by the Austro-Hungarian authorities which would tend to provoke a response in the execution of the provisions of the act of Congress above referred to.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Wilson to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,  
*Washington, March 20, 1899.*

SIR: I have the honor to acknowledge, with thanks, the receipt of your letter of the 14th instant, inclosing for my information copy of

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<sup>1</sup> Not printed.

dispatch from our chargé d'affaires ad interim at Vienna, No. 126, February 15, 1899, reporting that the matter of exaction of duty on salt in which meats from the United States were packed has been brought to the attention of the Austro-Hungarian Government.

It appears that the Austrian authorities are multiplying obstructions to the entry of our products into that country, and I think it might be well if the American minister at Vienna were instructed to intimate in a diplomatic way that there is a growing impression in the United States that the products of this country are discriminated against in Austria, and that if these discriminations continue the American Government may, much against its wishes, find it necessary to apply more stringent regulations and more rigid inspection to goods imported from Austria-Hungary into the United States. Congress at its last session authorized this Department to make inspection of imported goods in certain cases, and I expect to avail myself of this authority with goods from countries where unduly rigid regulations and uncalled-for obstructions are placed in the way of our trade.

Very respectfully,

JAMES WILSON, *Secretary.*

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*Mr. Harris to Mr. Hay.*

No. 10.]

UNITED STATES LEGATION,  
*Vienna, June 5, 1899.*

SIR: I have the honor to advise you that this legation has received a note from the Count Szecsen, second chief of section of the foreign office, dated the 19th of May, 1899, stating the inability of the Austrian Government to comply with the request made by Mr. Herdliska in his note of the 15th of February, 1899, for the withdrawal of the decree exacting the same duty upon the salt in which meats are packed as upon the meat itself.

I beg further to advise you that, in reply to Count Szecsen's note, and pursuant to your dispatch No. 9, of the 13th of April, 1899, I have addressed a note to the Count Goluchowski, Imperial and Royal minister of foreign affairs, conveying to the Austrian Government the instruction contained in your dispatch.

Upon the receipt of Count Szecsen's note this legation sought to ascertain the precise facts touching the importation of bacon. We had an interview with an importer who states that he caused the Cudahy Packing Company to lodge its complaint of the 10th of January, 1899, with the Secretary of Agriculture.

From this source the information is:

(1) That for many years after the adoption of the present customs act of 1882 no charge of any kind was made on account of the box or the salt, but the bacon was removed and weighed net.

(2) Some few years since a great demand sprung up for imported hog products, including bacon, because a hog malady cut down the production in this country. This demand was supplied practically from America alone.

(3) The agricultural interests and others are opposed to this importation, and so it came about that the practice was changed, as stated in Count Szecsen's note, so as to include the salt as bacon.

(4) Our informant says the practice with regard to bacon imported is now as follows: The entire package is weighed, 13 per cent of the gross weight is deducted, and the duty is computed on 87 per cent of the total weight. That, in fact, the box is about 17 per cent and the salt 6 per cent of the gross weight, making an overcharge of 10 per cent.

(5) This is declared to be oppressive, and amounts to from 1½ to 2 florins per 100 kilos (or 220 pounds). The salt, after being separated from the meat, is of no commercial value. It is sometimes used in the warehouse for a time in conserving other meats, but can not be sold and is cast away.

(6) Our informant (who declines the use of his name) states that the decrease of the importation into this country of bacon and other hog products is attributable in part to the oppressive manner in which the customs charges are enforced, and in part to an increased production in this country consequent upon the malady above mentioned being stamped out by this Government.

Inclosed please find:

- (a) A translation of Count Szeccsen's note of date May 19, 1899.
- (b) A translation of paragraph 13 of the customs act.
- (c) A copy of the note addressed by me to the foreign office on the 3d of June, 1899, transmitting your instruction of the 13th of April, 1899.

I have, etc.,

ADDISON C. HARRIS.

[Inclosure A.—Translation.]

*Foreign Office to Mr. Harris.*

In his esteemed note of the 15th of February of the current year, F. O. No. 98, the chargé d'affaires of the United States of America, Mr. Charles V. Herdliska, was pleased to forward to this ministry a reclamation in which the Cudahy Packing Company of South Omaha, Nebr., makes complaint to the effect that the chief custom-house at Trieste, on the basis of a new decree, and contrary to the practice hitherto followed, has recently, upon imports of salted meats from America, been adding the salt used for the preservation of the meat to the dutiable net weight of the meat itself.

In connection therewith, request was made by the chargé d'affaires that this decree might be withdrawn and that the custom hitherto followed might be returned to.

The Cudahy Packing Company has here evidently in view that order of the Imperial and Royal ministry of finance in which it was pointed out that the separating of the salt used for the preservation of bacon before the determining of the dutiable net weight is unadmissible.

With reference to this subject, the Imperial and Royal ministry of foreign affairs, on the basis of the understanding reached by it with the several ministries interested, begs to submit to the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Addison C. Harris, as follows:

When in the second half of the year 1897 the importation of salted bacon, which, up to that time, had been inconsiderable, began suddenly to assume large dimensions, complaint was made by a party against the



refusal of the custom-house to separate the preserving salt. In answer to this complaint, a decision was made in the above-named sense because of the fact that salted bacon, the same as salted meat, salted fish, etc., is assigned to its special number under the tariff and because of the fact that, according to paragraph 13, Section C, of the regulations putting the tariff law into execution, ordinary packing materials only, such as hay, straw, sawdust, paper cuttings, etc., are not to be added to the dutiable net weight.

In the beginning of the year 1898, the office of the controller of the collectors of the tariff (Zollrechnungs-Censur), one of the Departments of the Imperial and Royal ministry of finance, pointed out that a number of custom-houses, among others the chief custom-house at Trieste also, was permitting the separation of preserving salt from salted bacon.

As a result of this notice, the Imperial and Royal ministry of finance, by decree of the 11th of November, 1898, No. 58904, instructed all the Imperial and Royal custom-houses in the sense mentioned at the beginning of this note.

A like instruction was also sent out by the Royal Hungarian ministry of finance to the custom-houses under its jurisdiction.

On the basis of this instruction, the chief custom-house at Trieste has now discontinued its former erroneous practice.

From this statement, the legation will kindly understand that the above-mentioned order by no means sets up a new practice (Hovum) directed against the importation of American bacon, i. e., American meat. On the contrary, has no other object than the binding of all custom-houses to the uniform application of the regulations in force.

The Imperial Royal Government regrets, therefore, that it is not in a position to order the withdrawal of the decree in question.

The undersigned avails, etc.

Vienna, May 19, 1899.

For the minister:

SZECSÉN.

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[Inclosure B.]

*Translation of paragraph 13 of the regulations putting into operation the Austro-Hungarian tariff law of the 25th of May, 1882.*

With reference to packings: A. When goods are packed in a number of inner wrappings the net weight is, in general, to be ascertained by the addition of all of these wrappings. The person liable to duty has the privilege, however, of separating the wrappings upon and near the outside from the goods, and of then withholding them from addition to the net weight of the goods, if he declares them separately, under the heading under which they would come under the tariff, and pays duty upon them accordingly.

In this manner a person liable for duty, for example, for the importation of gloves may have the net weight of the gloves as they are generally packed, surrounded by paper in pasteboard boxes, these boxes again packed in cases, ascertained either (1) by deducting the tare fixed by the tariff from the gross weight of the case, or (2) according to the weight of the filled pasteboard boxes, or (3) by separating the pasteboard boxes from the gloves, and declaring these boxes separately under the heading under which they would fall under the tariff.

B. The inclosures to goods such as the boards and spools on which ribbons, yarns, and laces are named; the paper contained in bolts of various cloths, oilcloths, etc.; the coverings used by manufacturers for textile fabrics; the pasteboard or paper cards upon which various wares are fastened by the dozen or gross, and wrappings such as bottles, paper, pasteboard, cord, etc., which serve for the immediate preservation of wares, are not, in determining the net weight, to be deducted; neither is any kind of waste which may be mixed with the goods to be deducted.

C. On the contrary, materials which are apparently intended solely for the safety of wares while in transit and not for their further conservation—as, for example, hay, straw, sawdust, paper cuttings, etc., in the transportation of pottery, glass, and similar wares—are not to be added to the net weight nor are they to be declared separately.

Outer wrappings composed of straw, sedge, etc., as also the movable double bottoms of barrels containing fluids, may be removed before the process of weighing. In these cases, however, the higher rate of tare fixed for such packings of barrels, etc.—as, for example, in the case of tropical fruits—can not be claimed.

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[Inclosure C.]

*Mr. Harris to Count Goluchowski.*

UNITED STATES LEGATION,  
Vienna, June 3, 1899.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of Count Szecsen's note of the 19th of May, 1899, replying to Mr. Herdliska's note of the 15th of February, 1899, in which Mr. Herdliska requested that the ministerial decree exacting the same duty upon the salt in which meats from the United States are packed as upon the meat itself might be abolished, and American meats be permitted to enter the Austro-Hungarian Empire under the conditions heretofore existing.

It would seem that from the date of the Imperial customs act until last November, a period of eighteen years, the customs officers construed the act to mean that the duty on bacon imported into Austria-Hungary was computable on the actual weight of the meat only, and not upon the weight of either the box or the salt. This seems naturally just, as the salt, after being separated from the meat, has no commercial value.

It is a rule of wide application, and believed to be generally recognized, that a construction put upon a statute for a period of years by the officers whose duty it is to apply and enforce the same comes to be the true interpretation of the law, upon which all parties may safely rely. It would seem therefore that the complaint made on behalf of American shippers of bacon into this Empire is not groundless. Especially is this so in the light of the fact that the salt, when separated from the bacon, is commercially worthless.

By the construction now put upon the law by the order of November 11, 1898, this worthless and unsalable salt is weighed and computed as if it were of equal value with the bacon itself. It is but natural

under the circumstances that the American shippers should feel that an unjust burden is being put upon their import. And this feeling is thought by the undersigned to be well founded.

It is noticed with pleasure that it is stated in Count Szecsen's note that it is not the purpose of the Imperial and Royal Government "to set up a new practice against the importation of American bacon." At the same time it would appear to be true, if the information had at this legation is not incorrect, that the bacon imported into the Imperial and Royal Empire comes almost wholly from the United States of America, so that the effect is had only upon those engaged in the production and importation of American bacon. This consequence leads the undersigned to express his regret that the Imperial and Royal Government did not see its way to return to the practice which seems to have been obtained for so many years.

The undersigned feels impelled to state to your excellency that by an act of the Congress of the United States of March 1, 1899, plenary power is conferred upon the Secretary of Agriculture to investigate, both by physical examination and chemical analysis, foods, drugs, liquors, and the like imported from foreign countries into the United States; and if found to be deleterious, or dangerous to health, to direct the Secretary of the Treasury to refuse the delivery of such goods to the consignee.

It is profoundly hoped that nothing will occur and no practice be pursued touching the importation of American products which might tend to cause the Secretary of Agriculture to do that which those engaged in exporting into the United States might feel to be unnecessary or burdensome.

In conclusion, permit me to assure your excellency that it will afford me great pleasure if you shall authorize me to say that the propriety of returning to the practice which obtained for so many years is still further under consideration.

I avail, etc.,

ADDISON C. HARRIS.

#### INCOME TAX—CASE OF H. M. BRAEM.

*Mr. Harris to Mr. Hay.*

No. 6.]

UNITED STATES LEGATION,  
Vienna, May 9, 1899.

SIR: I have the honor to submit for your consideration and instruction the following case:

Mr. H. M. Braem is an American citizen now in Vienna. I inclose a copy of a letter by him, addressed to me, which states his case. I inclose also a copy of the law and also a translation of so much of the law as seems to bear on the case.

The case derives greater importance from the fact, as I am informed by him, that other Americans and Englishmen similarly situated are now contesting their several liabilities under the law. But they, Mr. Braem states, are making the contest through other channels and have perhaps angered the authorities. At most, Mr. Braem says, the authorities advised him, if he is determined to resist, to submit his case through this legation to the foreign office.

I find no books in the legation treating this subject, therefore I hesitate to affirm that, "according to international principles," Austria is inhibited from levying an income tax on Mr. Braem.

I shipped some books on international law, but they are not yet at my command.

As this is to be perhaps what is sometimes called a "leading case," I deem it best to take the advice of the Department.

The seeming effect of the law is to tax Americans, and not Germans, Italians, etc., for I assume these Governments impose taxes on incomes realized in their several jurisdictions.

It would also seem that if a foreigner imports money into Austria arising from sales of property or produced otherwise than as named in the law it is not taxable.

To my mind it is unjust to compel an American to pay a tax if he pend of his income here, but not if he spends of his principal.

Awaiting your instructions, I have, etc.,

ADDISON C. HARRIS.

[Inclosure 1 in No. 6.]

*Mr. Braem to Mr. Harris.*

VIENNA, May 8, 1899.

SIR: I beg to lay before you the following case and to ask your assistance in the matter. Having two married daughters in Austria, it pleases me to reside here more or less, and instead of living in a hotel have an apartment.

The Austrian Government last year notified me to make a return for income tax, which I declined telling them. I had no money invested in this country, nor did I derive any income from it in any way, form, or shape. This year they sent a document filled up by themselves for the return that I declined to make, and gave me until the 25th instant to appeal from it. I answered them that I was not liable, that I lived in an apartment as being more convenient, and that every year I have passed three months in America and often five out of the country.

I have now been served with still another paper for this year.

Under the circumstances I claim I am not liable to any tax here, and that my going home once a year releases me from "more than a year clause," and I ask your excellency's assistance in this to me provoking incident.

Believe me, etc.,

H. M. BRAEM.

[Inclosure 2 with No. 6.]

*Translation of section 2 of paragraph 153 of the income-tax law of Austria as it relates to foreigners.*

(a) Those persons who are not subjects of the kingdoms and lands represented in the Austrian Reichsrath are subjected to the provisions of the income tax if they live within the territory in which this law is

in force, for the purpose of gain, or if they make this territory their domicile for a period longer than one year, as follows:

(1) From the incomes which they acquire within the kingdoms and lands represented in the Austrian Reichsrath; or

(2) From the incomes which they import into these kingdoms and lands.

(b) Incomes are, however, exempted from this tax when they are derived from countries outside the administration of this law if the said incomes are already subjected to an income or like tax in the countries from which they are derived.

(c) Besides the cases enumerated in division (a) foreigners are subjected to the provisions of the income tax as follows: If they are the owners of real estate, or of mortgages on domestic real estate, or of properties bound to the kingdoms and lands represented in the Reichsrath, by entail or other legal provisions, or if they are engaged in business enterprises or occupations of profit, or are participants in such occupation or enterprise, or, if they are the recipients of incomes in compensations and pensions from the Austrian treasury, from the incomes which they acquire from these sources.

The ownership of stocks, shares, and like certificates of value is not to be considered as participation in an enterprise in the sense of the foregoing.

Further, undivided inheritances are subjected to the provisions of the income tax according to paragraph 229 of this law.

#### EXEMPTIONS.

The following foreigners are exempted from the payment of the income tax:

Paragraph 154, section 3. The diplomatic representatives accredited to the Imperial and Royal court and consuls of foreign nations who are not Austrian subjects, as also the clerks and servants, in so far as they are foreigners, employed by such representatives and consuls, as follows:

Upon all the incomes which they do not acquire from the sources enumerated in division B of section 2 of paragraph 153.

Section 4. Those persons who are entitled to exemption from the provisions of the income tax in pursuance of treaties or by virtue of international principles.

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*Mr. Hay to Mr. Harris.*

No. 17.]

DEPARTMENT OF STATE,  
*Washington, May 31, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 6, of the 9th instant, relative to the liability of Mr. H. M. Braem to income tax under the laws of Austria.

In reply I have to inform you that the matter is one which should be tested in the courts of that country. In its present aspect, at least, the case is not one for diplomatic intervention.

I am, etc.,

JOHN HAY.

## RECEPTION OF ADMIRAL DEWEY AT TRIESTE.

*Mr. Harris to Mr. Hay.*

No. 22.]

UNITED STATES LEGATION,  
Vienna, July 24, 1899.

SIR: While at Port Said Admiral George Dewey telegraphed to the American consul at Trieste, Mr. F. W. Hossfeld, that he would arrive there about July 19. The consul informed me promptly. The legation advised the minister of foreign affairs, Count Golnchowski, that the United States flagship *Olympia*, bearing Admiral Dewey, would arrive at Trieste, as already stated; at the same time it was made known that it was not thought the Admiral desired more than the usual ceremonies and salutes.

I invited the American consuls in Austria-Hungary to come to Trieste and with me greet the Admiral upon his arrival.

The consul at Prague, Mr. Donzelmann, could not go on account of illness; the consul at Budapest, Mr. Chester, was called elsewhere; the others came. Mr. Herdliska, the secretary, accompanied me from Vienna, and Lieutenant Commander Beehler, naval attaché, bringing with him Congressman George E. Foss, of Chicago, member of the Committee on Naval Affairs of the House of Representatives. Mr. Herdliska, on our arrival, secured permission and raised the American flag over our hotel (Hotel de la Ville), which, the Admiral said, gave him and the officers great surprise and delight as they came into port on the morning of the 20th.

Admiral Spann, of the Austro-Hungarian navy, was at Trieste during Wednesday to receive Admiral Dewey, and expressed regret that he could not remain longer, but business imperatively required him to leave for Vienna on Wednesday evening.

On Friday evening the legation entertained Admiral Dewey, Captain Lamberton, the officers of the United States flagship, and the consuls present. And on the next evening Admiral Dewey entertained the minister, secretary, naval attaché, consuls, and Congressman Foss on board the ship.

The Admiral is in good health. His purpose is not to leave the ship until he arrives in America, perhaps about the 1st of October next.

I have, etc.,

ADDISON C. HARRIS.

*Mr. Adee to Mr. Harris.*

No. 34.]

DEPARTMENT OF STATE,  
Washington, August 19, 1899.

SIR: I inclose for your information copy of a letter from the Acting Secretary of the Navy, transmitting a copy of a communication received from the Navy Department from Admiral George Dewey in regard to his visit with the flagship *Olympia* to Trieste.

The Department has read the letter with gratification, and you may take a convenient occasion to mention to the foreign office the gratification with which this Government learned of the cordial reception given to the Admiral at Trieste.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

## FOREIGN RELATIONS.

[Inclosure.]

*Mr. Allen to Mr. Hay.*NAVY DEPARTMENT,  
*Washington, August 16, 1899.*

SIR: I have the honor to forward herewith for the information of the State Department a copy of a letter received from Admiral George Dewey in regard to his visit with the flagship *Olympia* at Trieste.

Very respectfully,

CHAS. H. ALLEN,  
*Acting Secretary.*

[Subinclosure.]

*Admiral Dewey to the Secretary of the Navy.*UNITED STATES FLAGSHIP OLYMPIA,  
*Trieste, Austria, August 1, 1899.*

SIR: Leaving Trieste to-day, I desire to bring to the attention of the Department the uniform courtesy and kindly feeling shown not only to me, but to the ship and its whole personnel as representing our country, by the officials and people of Trieste and Austria. The Austrian minister of marine arrived from Vienna to welcome us officially, and remained several days awaiting us, but was obliged by his duties to return before our arrival. The naval, military, and civil officials stationed here have been most cordial.

The people also have exhibited a most friendly feeling toward our nation, and have visited the ship in large numbers. It is estimated that 40,000 people attended the funeral of Rask, an electrician, who died in the hospital, and they showed many marks of sympathy.

Naval Constructor Capps, who visited the dockyard at Pola, was shown every courtesy there, and also at the naval and private ship-yards of Trieste.

I have, etc.,

GEORGE DEWEY,  
*Admiral, U. S. Navy, Commander in Chief.*

**PASSPORT OF WILLIAM TRAUBER—REFUSAL OF VISA BY  
AUSTRIAN CONSUL AT BRAILA, ROUMANIA.**

*Mr. Adee to Mr. Harris.*

No. 33.]

DEPARTMENT OF STATE,  
*Washington, August 4, 1899.*

SIR: I inclose for your information a copy of a dispatch from the United States consul at Athens, Greece, No. 36, of July 17, 1899, relative to the conduct of the Austrian consul at Braila, Roumania, in relation to a passport issued by Mr. McGinley, in the absence of the United States minister from Athens. The facts are sufficiently narrated in this dispatch, showing the action of the consul, who, it is alleged, declared the passport to be a forgery and the holder thereof, Mr. William Trauber, a swindler. He intimates that the consul threatened to tear up his passport as being false.

The reported action of the Austrian consul is of so extraordinary a character as to need no argument in remonstrance, and it is believed that it will only be necessary to submit the facts in order to convince the Imperial and Royal Government that the consul gravely exceeded his powers in declaring a regularly issued passport of this Government to be a forgery.

In this connection you are referred to a dispatch from your predecessor, No. 93, of August 23, 1894, relative to the validity of passports. (See Foreign Relations, 1894, pages 36 and 46.) One of the points ceded by the Austrian Government reads as follows:

First. It is conceded that the passport of the citizen of either Government, native or naturalized, not bearing upon its face the insignia of its own invalidity, can not be called in question by the municipal district and inferior officers of the Government, but that such paper is *prima facie* evidence of the facts therein stated and must be respected as such. If the subordinate officers of the Government have suspicion of the fraudulent character of the paper presented, they report the fraud or irregularity alleged to some tribunal, if any, having competent authority under the rules of international law to determine the same.

It is desired that you bring these facts to the attention of the Austrian Government in order that it may issue such instructions to its consul at Braila as will prevent a recurrence of such action on his part.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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[Inclosure.]

*Mr. McGinley to Mr. Cridler.*

No. 36.]

CONSULATE OF THE UNITED STATES,  
*Athens, Greece, July 17, 1899.*

SIR: I have the honor to advise you that on June 10, 1899, I issued a passport to William Trauber, a naturalized citizen of the United States residing temporarily in Roumania, taking in his old passport, No. 59, issued by the legation at Athens two years ago, and which I forwarded to the Department with my last quarterly returns. On July 5, 1899, the following telegram was received at this consulate:

McGINLEY, *American Consul, Athens:*

Austrian consul, Braila, refuses recognizing your passport. Considers false document. Please take steps. Thanks.

BRAILA, *July 4, 1899.*

WILLIAM TRAUBER.

On July 6, 1899, I stated the case verbally to the *chargé d'affaires* of the Austrian legation, Athens, showing him the telegram. He kindly informed me that his legation had no control over the consuls in Roumania, but that he would telegraph the consul at Braila that the passports issued by the United States consul at Athens were good. I then wired Mr. Trauber as follows:

WILLIAM TRAUBER, *Braila:*

Austrian legation wires consul at Braila that my passports are good. Write particulars immediately.

ATHENS, *July 6, 1899.*

McGINLEY.



I now am in receipt of a letter from Mr. Trauber giving particulars, and I inclose a true and correct copy of that letter.

Awaiting your instructions, I am, etc.,

WILLIAM MCGINLEY, *Consul*.

[Subinclosure.]

*Mr. Trauber to Mr. McGinley.*

BRILA, July 5, 1899.

DEAR SIR: I beg to confirm my wire of yesterday, and to inform you herewith what happened to me in last few days.

As you remember, I got my passport from you some time ago, dated 10th June, under No. 5. It is perfectly in order, with the only exception that in place of the word "Legation," you crossed this off, putting the word "Consulate."

Saturday, the 1st instant, I went to the Austrian consul here to have my passport viséd, as I intend going to Carlsbad, so I wanted to avoid having difficulties at the frontier. As I produced the passport to the secretary he put the visé, made me pay the legal fee, and then brought the paper to the consul to sign it. In a few minutes he turned back with the remarks, "Not necessary to visé; Americans are free," and refunded me the tax. So I asked the secretary whether I shall have no difficulties, to which he replied; "No; consul must probably know that it is so." So I went off.

On Monday, 3d instant, I was called for by Mr. Chatmer, the chief of the well-known banking house Ieschek & Co. here, who informed me that the Austrian consul had communicated him he had refused to visé my passport because he is suspicious of me, of which he notified the "Procureur," as he believes my passport to "be false." As I heard of this I went at once to the Austrian consul in order to inquire of what is going on, so as not to be retained somewhere for suspicion. Coming into his office I spoke, as usual, very politely to him, and, opening my passport, he said to me, "You dare coming (come) with that paper to sign. This is a forgery; you are a swindler," and uttered some other indecent expressions that I am rather ashamed to reproduce. Instead of letting me explain him that the paper had been issued at your office, of which I can prove him by a letter received from your good self, dated 22d May, or he should inquire telegraphically of you and the consul at Bucharest, who, as you know, has signed the application, he commenced to shout on me, calling me "scoundrel, swindler, bearer of false passports," and other very common expressions, and menaced me to tear up my passport as being false. He then chased me out from the office in spite of my polite behavior and my repeated demands to give me a chance to speak something on my behalf.

You can hardly imagine, dear Mr. McGinley, how this offense influenced upon me, and would you know the position I am occupying since many years, as manager of a great firm, you would make yourself an idea what an impression this incident has made upon me.

As an American citizen, I beg to appeal to you, as my protector, to kindly investigate this matter, and to take necessary steps against this official who, without reason whatever, has dared to insult an American

citizen, blessing my honor, by this treatment, or I may say, by this indecent behavior.

I hope and trust that you will not let this matter into oblivion, and relying upon your sentiment of justice, I am quite certain you will know how to make the consul to render to me satisfaction in some way.

I beg to apologize for the trouble I am causing you and awaiting your favorable reply I express you my sincere thanks, and remain, etc.,

WILLIAM TRAUBER.

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*Mr. Herdliska to Mr. Hay.*

No. 50.]

UNITED STATES LEGATION,  
Vienna, October 9, 1899.

SIR: I have the honor to report upon the case of William Trauber as follows:

Pursuant to the Department's instruction, No. 33, of the 4th of August, 1899, Mr. Harris, in a note dated the 21st of August, 1899, No. 20, a copy of which is respectfully submitted herewith, duly brought to the attention of the Imperial and Royal ministry of foreign affairs the facts and instructions set out therein.

I am now in receipt of a note from the foreign office replying to the representations made to it by Mr. Harris, and beg to respectfully submit my translation of the same herewith.

In this note, Count Welsersheiml, speaking for the Imperial and Royal minister of foreign affairs, declares that—

1. There was no reason why the Imperial and Royal consul at Braila should place the Austrian visa demanded by Trauber upon the American passport produced by him because of the fact that the Imperial and Royal regulations require this in the cases of Russian and Turkish passports only, and this because of reciprocal agreements.

2. About the time Trauber presented his passport to be visaed a forgery had been committed upon the Austrian banking house of Jeschels & Co., and the Imperial and Royal consulate at Braila, having taken the said banking house under its protection, was assisting in ferreting out the perpetrator, among other ways by refusing to visé the passports of suspicious foreigners.

3. When Trauber presented his passport to be viséed, the fact that it had been issued at Athens and not at Bucharest, where Trauber is said to have resided for more than seven years past, and the fact that the said passport had the printed word "legation" crossed out and the word "consulate" written over it—a procedure decidedly neither usual nor regular—caused the consul to become suspicious of Trauber, and he consequently refused to visé the passport.

4. The consul not only considered himself justified, but found it his duty, in the interests of the injured banking firm, to make known to the head of the said firm, Mr. Chatiner, and an Austrian subject, his suspicions with regard to Trauber's passport, but that the consul can not be held responsible if the said Chatiner thought it expedient to make known to Trauber what had been communicated to him in the strictest confidence.

5. Trauber's allegation that the consul brought a charge against him

before the public prosecution is declared by this Imperial and Royal functionary as not being in accordance with the actual facts.

6. The further statements made by Trauber, according to which the consul is alleged to have called the passport in question a falsification, to have screamed at him and made use of expressions such as swindler, etc., and to have threatened to tear up the passport, are also declared not to be in accordance with the actual facts.

7. On Trauber appearing for the second time on the 3d of July last with the renewed request to have his passport viséed, the consul repeated to him what he had already told him on his first visit, viz, that the viséing of his passport was not necessary and that he could travel with it throughout the Austro-Hungarian Empire without submitting it to the said formula; nevertheless, if Trauber considered the viséing so very desirable, he need only to send the passport for this purpose first to the American consul and then to the Imperial and Royal consular authority at Bucharest, which might easily be effected through the post.

8. On Trauber's insisting, however, in peremptory tones, on having the viséing carried out on the part of the Imperial and Royal consulate at Braila, the consul requested him, in decided but in no wise insolent terms, to desist and to leave the office.

Finally, Count Welsersheimb declares that according to the above statements there can be no question of disrespect having been shown to the passport of the naturalized American citizen William Trauber on the part of the Imperial and Royal consul at Braila, who, as aforesaid, gave him, the claimant, implicitly to understand that he could travel through the Monarchy with his American passport without undergoing the formula of viséing. If, therefore, the consul, taking the unusual circumstances of the case into consideration, refused to comply with William Trauber's obstinate demands to visé his passport, which he, the consul, did not consider himself morally obliged to do, he can not, under any pretext whatsoever, be charged with a violation of his official duties either in one or the other direction.

I have the honor to submit herewith also the passport in question, which Mr. Trauber, upon the occasion of a personal visit to this legation, in the interest of his case, left with me. I beg that the Department will kindly return the same when finished with it, in order that this legation may again return it to Mr. Trauber.

Awaiting any further instructions you may be pleased to give with reference to this case,

I have, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad interim.*

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[Inclosure 1.]

*Mr. Harris to Count Goluchowski.*

No. 20.]

UNITED STATES LEGATION,  
*Vienna, August 21, 1899.*

YOUR EXCELLENCY: I have the honor to inclose to your excellency herewith a copy of a dispatch to the Department of State by the consul of the United States of America at Athens, Greece, of date the

17th of July, 1899, relative to the conduct of the Imperial and Royal consul of Austria-Hungary, at Braila, Roumania, in relation to a passport issued by the consul of the United States at Athens in the absence from Athens of the minister of the United States of America.

The facts are sufficiently narrated in this dispatch to show the action of the Imperial and Royal consul who, it is alleged, declared the passport issued by the United States consul, Mr. Daniel McGinley, to be a forgery and the holder thereof, Mr. William Trauber, a swindler. He intimates that the Imperial and Royal consul threatened to tear up his passport as being false.

I have the honor to submit to your excellency that the reported action of the Imperial and Royal consul is of such an extraordinary character as to need no argument in remonstrance, and it is believed that it is only necessary to submit the facts in order to convince the Imperial and Royal Government that the Imperial and Royal consul gravely exceeded his powers in declaring a regularly issued passport of the Government of the United States of America to be a forgery.

In this connection I beg to refer your excellency to the esteemed note of the Imperial and Royal ministry of foreign affairs, No. 28523-F of date the 18th of August, 1894, to this legation, relative to the validity of passports, in which one of the points ceded by the Imperial and Royal Government is summed up as follows:

It is conceded that the passport of the citizen of either government, native or naturalized, not bearing upon its face the insignia of its own invalidity, can not be called in question by the municipal district and inferior officers of the government, but that such paper is *prima facie* evidence of the facts therein stated and must be respected as such. If the subordinate officers of the government have suspicions of the fraudulent character of the paper presented, they may report the fraud or irregularity alleged to same tribunal, if any, having competent authority under the rules of international law to determine the same.

Under instructions from the Department of State, I have the honor to bring these facts to the attention of the Imperial and Royal Government, in order that it may issue such instructions to the Imperial and Royal consul at Braila as will prevent a recurrence of such action on his part.

I avail myself, etc.,

ADDISON C. HARRIS,  
*United States Minister.*

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[Inclosure 2.]

*Mr. Welsersheimb to Mr. Herdliska.*

The Imperial and Royal ministry of foreign affairs has had the honor to receive the esteemed note of August 21, of the present year, No. 20, F. O., in which the honorable North American minister was pleased to communicate a complaint, made by the naturalized American citizen William Trauber, of the treatment he says he experienced recently at the hands of the Imperial and Royal consulate at Braila on his presenting his passport to be viséed.

The ministry for foreign affairs has not delayed making all necessary inquiries in order to arrive at the clear facts of the case, which are as follows:

The case referred to in the esteemed note above mentioned had already been the subject of a direct reclamation on the part of William

Trauber, who had applied to the Imperial and Royal legation at Bucharest, and the said legation, after investigating the case, declared itself unable to take further steps in the matter, with which decision Mr. Trauber was made acquainted July 15 of the present year.

The reason why the Imperial and Royal consul at Braila was unable to comply with William Trauber's repeated demands to have his American passport viséed is due to the following facts:

In accordance with the passport ordinances for the Imperial and Royal missions and consulates the viséing of foreign passports for traveling through Austria-Hungary by Imperial and Royal representative authorities is not needed excepting for Russian and Turkish passports, which are subject to being viséed on grounds of reciprocity.

The Imperial and Royal consul in Braila had consequently no reason for complying with Trauber's request to visé the American passport he produced, which passport was issued at Athens, as was explicitly made clear to him. The consul had besides special reasons for his noncompliance.

At the very time William Trauber presented his passport to be viséed a check had been forged for a considerable sum at the Austrian banking house of Jeschels & Co., and as several foreign subjects had been arrested on suspicion, the report spread that several other foreigners were implicated in the said forgery.

The Imperial and Royal consulate in Braila, having taken under its protection the banking house in question, participated in investigating the case and in arresting suspicious characters, and gave orders that all foreign passports for Austria-Hungary should be most carefully examined, and even refused to visé the passports of several foreign individuals. Added to this the fact of William Trauber's passport having been issued at Athens, and not at Bucharest, where he is alleged to have lived for more than seven years, served as a further cause for suspicion against him. In the said passport, moreover, the printed word "legation" was crossed out and that of "consulate" written above—a procedure decidedly not in accordance with customary precedence.

The Imperial and Royal consul did not only consider himself justified, but found it also his duty, in the interests of the deeply injured firm, to reveal to Mr. Chatiner, head of the banking firm Jeschels & Co. and an Austrian subject, his suspicions with regard to William Trauber's passport, and the consul can therefore not be held responsible if the aforesaid Mr. Chatiner thought it expedient to make known, on his part, to Mr. Trauber what had been communicated to him in the strictest confidence, nor did the consul think himself obliged to reveal to Mr. Trauber, on being called to account by him, what he had confided to Mr. Chatiner.

That the consul, as alleged by Trauber, brought a charge with regard to him before the public prosecutor is declared by the latter Imperial and Royal functionary as not being in accordance with the actual facts of the case, as are also the further statements made by Trauber, according to which the consul is alleged to have called the passport in question a falsification, to have screamed at him and made use of expressions such as swindler, etc., and to have threatened to tear up the passport as a forgery.

On Trauber appearing for the second time, on July 3, with the renewed request to have his passport viséed, the consul told him what

he had already been told on his former visit, namely, that the viséing of his passport was not necessary, and that he could travel throughout the Austro-Hungarian Empire without submitting it to the said formula, but should he nevertheless consider the viséing of his passport so very desirable he had only to send it for this purpose first to the American consulate and then to the Imperial and Royal consulate at Bucharest, which might easily be effected through the post. On Trauber's insisting, however, in peremptory tones, on having the viséing carried out on the part of the Imperial and Royal consulate at Braila, the consul requested him in a decided but in no wise insolent terms to desist from further molestation and to leave the office.

According to the above statements, there can be no question of disrespect having been shown to the passport of the naturalized American citizen William Trauber on the part of the Imperial and Royal consul at Braila, who, as aforesaid, gave him, the claimant, implicitly to understand that he could travel through the monarchy with his American passport without undergoing the formula of viséing. If, therefore, the consul, taking the unusual circumstances of the case into consideration, refused to comply with William Trauber's obstinate demands to visé his passport, which he, the consul, did not consider himself morally obliged to do, he can not under any pretext whatsoever be charged with a violation of his official duties either in one or the other direction.

In having the honor to respectfully acquaint the honorable chargé d'affaires of the United States of America, Mr. Charles V. Herdliska, with the above facts, the undersigned avails himself at the same time of the opportunity to renew the assurances of his highest consideration.

Vienna, October 4, 1899.

For the minister.

WELSERSHEIMB.

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*Mr. Hay to Mr. Herdliska.*

No. 55.]

DEPARTMENT OF STATE,  
Washington, November 18, 1899.

SIR: Referring to previous correspondence concerning the refusal of the Austrian consul at Braila, Roumania, to visé a passport issued by Mr. McGinley in the absence of the United States minister from Athens, I have to acknowledge the receipt of your dispatch inclosing translation of the reply of the Austro-Hungarian ministry of foreign affairs, replying to the representations made to it on the subject by Mr. Harris.

In view of all the circumstances of the case, the Department has decided to accept the Austrian explanations as satisfactory.

In compliance with your request Mr. Trauber's passport is herewith returned.

I am, etc.

JOHN HAY.

**MILITARY SERVICE—CASE OF MORIS THOMAN.***Mr. Harris to Mr. Hay.*

No. 28.]

UNITED STATES LEGATION,  
*Vienna, August 7, 1899.*

SIR: I have the honor to report to you for your information the case of Moris Thoman, a naturalized citizen of the United States, who was arrested in Hungary for nonperformance of military duty and released upon the intervention in his behalf of this legation.

Moris Thoman was born at Szobrancz, Hungary, on the 11th day of January, 1864, and emigrated to the United States in the year 1883, when he was 19 years of age. He resided in the United States eleven years, during which time he was admitted to citizenship before the court of common pleas of Philadelphia, at Philadelphia, Pa., on the 6th day of September, 1888. Being in poor health, he was advised that he would be benefited by a trip to Europe, whereupon he decided to make a visit to his brother residing in Berlin. He accordingly left the United States in June, 1894, reaching Berlin within the same month. Since his arrival in Europe he has continued to reside with and has made his home with his brother.

On the 21st of August, 1898, while on a visit to Szobrancz, Hungary, the place of his birth, for the purpose of attending the wedding of a relative, he was summoned by the "Stuhlrichter" (district judge) at Szobrancz to appear before the "Bezirkshauptmann" (governor) of that district for military examination. He presented his United States certificate of naturalization as evidence of his American citizenship to the Stuhlrichter, but this document was ignored by that official. He was informed that his name was upon the list of persons from Szobrancz liable to perform military service, and that he would accordingly be required to submit to the physical examination. The date of this examination was fixed by the Stuhlrichter for the 5th day of September, 1898, and Mr. Thoman was given the alternative either of remaining under arrest until that date or of furnishing bail in the sum of 150 florins as security for his appearance on that date. As Mr. Thoman would not submit to an unjust arrest, his only alternative was therefore to deposit with the Stuhlrichter the 150 florins demanded of him. This he did, but under protest, returning then at once to the house of his brother in Berlin. From there he appealed to this legation for assistance, which was given to him immediately. Representations were made in his behalf to the Austro-Hungarian ministry of foreign affairs by the secretary of this legation, Mr. Charles V. Herdliska, who was at that time acting as chargé d'affaires ad interim, whereupon an official inquiry was instituted into the facts of his case, with the result that Mr. Thoman's American citizenship has been recognized, that he has been freed from obligation to serve in the Imperial and Royal army of Austria-Hungary, and that the bail in the sum of 150 florins which was unjustifiably exacted of him has been returned to him.

Copies of the entire correspondence relating to this case are respectfully submitted herewith.

I have, etc.

A. HARRIS.

[Inclosure 1.]

*Mr. Thoman to Mr. Tower.*

BERLIN, August 24, 1899.

YOUR EXCELLENCY: Permit me to place my case before you and to request your kind assistance. The facts are as follows:

I was born on January 18, 1864, at Szobrancz, Hungaria, and emigrated to the United States in 1883, where I became naturalized before the court of common pleas at Philadelphia, Pa., on September 6, 1888. I last left the United States in June, 1894, and am at present staying with my brother in this city, my health not permitting me to return to the United States for the present.

On the 21st instant, while on a visit at Szobrancz for the purpose of attending a wedding of a relative of mine, I was notified that I would have to appear for examination for the purpose of performing military duty, but, on making a deposit of 150 florins, I was not arrested, and preferred to leave the money in the hands of the Stuhlrichter of the political authorities of that place and leave the country.

I beg to inclose my certificate of naturalization and certificate of birth, begging their ultimate return, from which papers it will be seen that the former gives my first name as Moris while the latter gives it as Mozes. I was always known under the name of Moris and therefore became naturalized under that name.

The time for me to appear was fixed on the 5th of next month, and I therefore beg that you will have the great kindness to intervene in my behalf so as to have the money returned to me and that my name, as an American citizen, be stricken from the list of those liable to military service in Austria-Hungary.

Excuse the trouble I am causing, and please accept my best of thanks for anything you may see fit to do in my case.

I beg, etc.,

MORIS THOMAN.

[Inclosure 2.]

*Mr. Herdliska to Mr. Thoman.*

UNITED STATES LEGATION,  
Vienna, August 31, 1898.

SIR: I have duly received your letter dated at Berlin on the 24th of August, 1898, in which you state that you are a naturalized American citizen; that you were born in Hungary in 1864; emigrated to the United States in 1883; were naturalized before the court of common pleas in Philadelphia, Pa., on September 6, 1888; last left the United States in the month of June, 1894, and have, since your arrival in Europe, made your home with your brother in Berlin, your health not permitting you to return to the United States. You further inform me that on the 21st of August, 1898, while on a visit to Szobrancz, Hungary, the place of your birth, for the purpose of attending the wedding of a relative, you were served with a notice that you would be required to present yourself before the local Stuhlrichter for examination for military service. On making a deposit with the Stuhlrichter in the sum of 150 florins, you were not arrested, and



thereupon immediately left the country, returning to Berlin. You state that the date for your appearance at Szobrancz for your examination is fixed for the 5th of September, 1898, and you beg, from Berlin, that this legation intervene with the Austro-Hungarian Government in your behalf, in order that this money—which you most probably furnished as bail for your appearance on that date, and which, as you have no intention of appearing, you do not wish to see forfeited—may be returned to you and your name be stricken from the list of those liable to military duty in Austria-Hungary.

As evidence of your naturalization you send to this legation your certificate of naturalization, issued to you by the court of common pleas of Philadelphia County, at Philadelphia, Pa., on September 6, 1888. You also inclose your certificate of birth.

Before this legation can take any steps in your case it will be necessary for you to state:

1. Whether you emigrated to America from Hungary after having been drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army; or,

2. Whether you emigrated while you stood in service under the flag, or had a leave of absence only for a limited time; or,

3. Whether having a leave of absence for an unlimited time, or belonging to the reserve or to the militia you emigrated after having received a call into service.

It will further be necessary for you to inform this legation as to the details of the deposit of 150 florins made by you; whether the money was demanded of you in lieu of arrest, or whether you furnished it voluntarily.

With these details in hand I shall take such steps as may be necessary to assist you.

I am, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad interim.*

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[Inclosure 3.]

*Mr. Thoman to Mr. Herdliska.*

BERLIN, *September 2, 1898.*

DEAR SIR: Your esteemed favor of the 31st ultimo came duly to hand, and in reply I beg to state:

To questions 1 and 2, I have never been drafted into the army, i. e., was never accepted as a soldier, although I presented myself for examination on one occasion. I did not apply for a leave of absence as I did not deem it necessary, not having to fulfil any military duty at the time of my emigration to America.

To question 3, I did not belong to the reserve or militia at the time of my emigration.

To recapitulate: I was never accepted as a soldier in Austria-Hungary, and belonged to neither reserve or militia at the time of my emigration, but emigrated without any leave of absence.

As to the deposit of the 150 florins I beg to state that at the time of my visit at Szobrancz I was informed that gendarmes were instructed to arrest me for avoidance of military duty, and a relative of mine visiting the Stuhlrichter of the Politische Behörde was told that I would

either be arrested or have to deposit the sum of 150 florins as security for my appearance before the proper military authorities. This sum was deposited, but I left the country not wishing to encounter further difficulty.

I was still at military age at the time of my emigration, but not accepted. I was 20 years of age at the time.

I hope that I have now placed before you all the facts necessary in my case, and that you will be in a position to kindly fulfil my request, that the money deposited be returned, and my name be stricken from the list of those liable to perform military duty.

With best thanks in advance, I beg, etc.,

MORIS THOMAN.

P. S.—I forgot to state that the Stuhlrichter stated at the time that he would only hold the deposit of 150 florins until the 5th instant, and after that date it would be forfeited.

[Inclosure 4.]

*Mr. Herdliska to the Stuhlrichter at Szobrancz.*

UNITED STATES LEGATION,  
Vienna, September 3, 1898.

SIR: Complaint has been made to this legation by Mr. Moris Thoman, a naturalized citizen of the United States of America, who was born at Szobrancz, Hungary, in 1864, and who emigrated to the United States in 1883, when he was 19 years old, and who is now temporarily residing in Berlin, Germany, that while on a visit to Szobrancz, for the purpose of attending the wedding of a relative, he was served with a notice that he would be required to present himself before the Stuhlrichter for examination for military service on the 5th of September, 1898, and that on making a deposit of 150 gulden he was not put under arrest pending his appearance.

The legation of the United States has the honor to advise the Stuhlrichter of Szobrancz that Mr. Moris Thoman is now a citizen of the United States, that he emigrated to America from Hungary before he was drafted at the time of conscription, and thus before having become enrolled as a recruit for service in the standing army, and can therefore, under Article II of the treaty of September 20, 1870, between Austria-Hungary and the United States of America, not be held to military service in Austria-Hungary now, nor is he liable now to trial and punishment for the nonfulfillment of military duty.

For this reason Mr. Thoman will not appear for examination for military service before you on the 5th of September, the date fixed by you, and the legation of the United States of America has the honor therefore to request that you will be kind enough, inasmuch as you had no claim upon Mr. Thoman, to return to this legation the 150 gulden you exacted of him to guarantee his appearance on the 5th instant.

The legation of the United States has the honor also to request that you will strike Mr. Thoman's name from the lists of those liable for military duty from Szobrancz.

I have, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad interim.*

[Inclosure 5.]

*Mr. Herdliska to Mr. Thoman.*UNITED STATES LEGATION,  
*Vienna, September 10, 1898.*

SIR: I have duly received your letter of September 2, 1898, in which you state, in reply to my letter to you of August 31, 1898, that you were "never drafted into the Austro-Hungarian army; that, although you presented yourself for examination on one occasion, you were not accepted." You further state that you "did not apply for a leave of absence at the time of your emigration to America as, not having any military duty to perform, you did not consider it necessary."

With reference to the 150 florins left by you with the Stuhlrichter of Szobrancz, you state that you "deposited the sum as security for your appearance before the proper military authorities." I have now to inform you that on the 3d of September, 1898, the date of the receipt of your letter, representations were made by me to the Stuhlrichter at Szobrancz for the return to you of the money deposited by you with him, and for the cancellation of your name from the lists of those liable to military duty from Szobrancz. Should these requests not be acceded to by the Stuhlrichter, or should I not hear from him within a reasonable time, I will present your case for adjustment to the Imperial and Royal ministry of foreign affairs of Austria-Hungary.

I am, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad interim.*

[Inclosure 6.]

*Mr. Herdliska to the Foreign Office.*UNITED STATES LEGATION,  
*Vienna, September 15, 1898.*

SIR: Complaint has been made at this legation by Moris Thoman, a naturalized citizen of the United States of America, of Hungarian birth, that he was unjustly arrested at Szobrancz, Hungary, upon a charge of nonperformance of military duty and was unjustifiably required to deposit with the Stuhlrichter of Szobrancz, as security for his appearance for examination upon the date fixed by the Stuhlrichter the sum of 150 florins, which money has never been returned to him. The facts of this case, as stated by Mr. Thoman, are these:

Moris Thoman was born at Szobrancz, Hungary, on the 11th day of January, 1864, and emigrated to the United States in the year 1883, when he was 19 years of age. He resided in the United States eleven years, during which time he was admitted to citizenship before the court of common pleas, of Philadelphia, Pa., on the 6th day of September, 1888. As he was in poor health, Mr. Thoman was advised that he would be benefited by a trip to Europe, whereupon he decided to make a visit to his brother residing in Berlin, Germany.

He accordingly left the United States in June, 1894, reaching Ber-

lin within the same month. Since his arrival in Europe, his health not permitting his return to the United States, he has continued to reside with and has made his home with his brother.

On the 21st of August, 1898, while on a visit at Szobrancz, Hungary, the place of his birth, for the purpose of attending the wedding of a relative, he was summoned by the Stuhlrichter of Szobrancz to appear before the bezirkshauptmannschaft of that district for military examination. He presented his United States certificate of naturalization as evidence of his American citizenship to the Stuhlrichter, but that document was completely ignored by that official. He was informed that his name was upon the list of persons from Szobrancz liable to perform military service, and that he would accordingly be required to submit to the physical examination. The date for this examination was fixed by the Stuhlrichter for the 5th day of September, 1898, and Mr. Thoman was given the alternative either of remaining under arrest until that date, or of furnishing bail in the sum of 150 florins as security for his appearance on that date. Mr. Thoman would not, as a matter of course, submit, as an American citizen, to an unjust arrest. His only alternative, therefore, was to deposit with the Stuhlrichter the 150 florins demanded of him. This he did, but under protest, returning then at once to the home of his brother in Berlin, where he is at present temporarily residing.

Mr. Thoman declares that he had never been summoned or enrolled as a conscript in the Imperial and Royal army of Austria-Hungary before he emigrated to America. He declares further that although he did upon one occasion, before his emigration to America, present himself voluntarily for examination, he was not accepted. He did not apply for a leave of absence at the time of his emigration to America, as, having no military duty to perform, he did not consider it necessary.

I have the honor to present these facts to your excellency's attention, with the request that an examination of them may be made by the proper authorities, and that if they be found correct, as they have been reported to me, the name of the said American citizen, Moris Thoman, may be removed from the Imperial and Royal military lists and the Stuhlrichter at Szobrancz be instructed to return to Mr. Thoman, without delay, the 150 florins unjustifiably exacted of him.

I avail myself, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad interim.*

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[Inclosure 7.]

*Mr. Thoman to Mr. Herdliska.*

BERLIN, *September 16, 1898.*

SIR: I beg to acknowledge the receipt of your esteemed favor of the 10th instant (which reached me yesterday), and to express my sincere thanks for the interest which you are giving my case. Hoping that your efforts will meet with success and that I may soon be in possession of a favorable reply, I beg, etc.,

MORIS THOMAN.

[Inclosure 8.]

*Mr. Thoman to Mr. Herdliska.*

BERLIN, November 25, 1898.

DEAR SIR: The money paid by me as a fine for the nonperformance of military duty to the Stuhlrichter at Szobrancz, Hungary, has been returned. This was due to your kind intervention in my behalf, for which please accept my sincere thanks.

Will you be good enough to inform me whether the Austrian Government has already informed the legation of any decision reached in my case, and whether my papers, which I transmitted to you, have been returned. I would also be grateful if you would kindly inform me whether my name has been stricken from the military lists, and if I may, should occasion arise, return to Austria-Hungary without being liable to molestation or arrest.

Awaiting your kind reply, I beg, etc.,

M. THOMAN.

[Inclosure 9.]

*Mr. Herdliska to Mr. Thoman.*

UNITED STATES LEGATION,  
Vienna, February 4, 1899.

SIR: This legation has duly received your letter of the 23d of November, 1898, and is gratified to learn therefrom that the "Stuhlrichter" at Szobrancz, Hungary, has, in consequence of the representations made to him by this legation, recognized your American citizenship and returned to you the 150 florins which you were required by him to deposit as bail at the time of your arrest there last August upon the charge of nonperformance of military duty.

On the 15th of September, 1898, I presented your case to the Austro-Hungarian foreign office also, and requested that your name be removed from the lists of those liable to military duty. The legation has not as yet been favored with a reply from the foreign office, but I am confident that your American citizenship will be duly recognized and your name removed from the lists of those liable to military duty in Austria-Hungary.

In the meantime I return to you herewith your certificate of naturalization issued to you by the court of common pleas No. 4, for the county of Philadelphia, at Philadelphia, Pa., on the 6th day of September, 1888, and your certificate of birth, which you sent to this legation in your letter of the 2d of September, 1898.

When a reply from the Austro-Hungarian foreign office is received, it will give me pleasure to advise you thereof.

I am, etc.,

CHARLES V. HERDLISKA,  
*Chargé d'Affaires ad interim.*

[Inclosure 10.—Translation.]

*The Foreign Office to the Legation.*

Replying to the esteemed note of the chargé d'affaires ad interim of the United States, Mr. Charles V. Herdliska, of date the 15th of September, 1898, No. 76, the Imperial and Royal ministry of foreign affairs has the honor to most respectfully inform the legation of the United States of America that the bail in the sum of 150 florins, which was deposited by his uncle, Elias Moskovics, for Moritz alias Moses Thoman, born in the year 1864, at one time a resident of Szobrancz and at present domiciled in Berlin, was returned to said Elias Moskovics by the Oberstuhlrichter (district judge) of the district of Szobrancz already on the 30th day of October, 1898.

The Imperial and Royal ministry of foreign affairs has the honor to most respectfully inform the legation of the United States of America further that, according to a decree of the Royal Hungarian ministry of the interior of date the 3d of July of the current year and numbered 63752-1, the said Moses (Moritz) Thoman is recognized, according to Article I of the treaty of naturalization, as a citizen of the United States of America, and that in consequence of such recognition the necessary measures have been taken that Thoman's name be struck from the rolls of the Imperial and Royal army and from the list of those persons who are liable to military duty, but who are absent.

Vienna, July 29, 1899.

For the minister:

SZECSÉN.

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[Inclosure 11.]

*The Legation to Mr. Thoman.*

BERLIN W., Aug. 11, 1890.

SIR: Supplementary to my letter to you of the 4th of February, 1899, I beg to inform you that this legation is now in possession of a reply from the Austro-Hungarian foreign office to the representations made to it in your behalf; the result of which representations is that, according to a decree of the Royal Hungarian ministry of the interior of date the 3d of July last, you are recognized by the Hungarian Government, according to Article I of the treaty of naturalization, as a citizen of the United States of America, and in consequence of such recognition the necessary measures have been taken that your name be struck from the rolls of the Imperial and Royal army and from the list of those persons who are liable to perform military service, but who are absent.

This ends your case, and you are therefore at liberty to visit Austria-Hungary now or at any time in the future without molestation.

I inclose to you herewith, for your information, a translation of the note received from the foreign office disposing of your case.

I am, etc.,

CHARLES V. HERDLISKA,  
*Secretary of Legation.*

**MILITARY SERVICE—SUNDRY CASES.***Mr. Adee to Mr. Harris.*

No. 40.]

DEPARTMENT OF STATE,  
*Washington, September 11, 1899.*

SIR: I inclose for your information copies of dispatches numbered 46,<sup>1</sup> of May 25 last, and 52,<sup>1</sup> of the 21st ultimo, from the United States consul at Prague, reporting the cases of certain naturalized American citizens who were arrested by the Austrian authorities for the non-performance of military service.

You are instructed to bring Mr. Donzelmann's statements to the attention of the Austro-Hungarian foreign office, with the request that they be fully investigated, and, if found to be correct, that prompt instructions be issued by the Austrian Government to the local authorities to pay respect to a United States passport, and that in case of the arrest of an American citizen bearing such a document he be instantly permitted to communicate with the consul.

It is not the wish of this Government to interfere with the execution of the military laws of Austria, should any of the persons arrested be legally amenable thereto, but it desires to protest, respectfully, against the refusal of the local authorities to permit them to communicate with the United States consular officer having jurisdiction.

The question is not new, as will appear by reference to the following cases, viz: Mr. Gresham to Mr. Grant, No. 299, May 8, 1893; Mr. Gresham to Mr. Tripp, No. 29, September 4, 1893; Mr. Tripp to Mr. Olney, No. 151, July 26, 1895; Mr. Tripp to Mr. Olney, No. 183, March 25, 1896.

Mr. Tripp's note to Count Goluchowski, of May 23, 1895 (Foreign Relations, 1895, p. 14), fully and clearly sets forth the position of this Government in the matter. The acquiescence of the Austro-Hungarian Government in our contentions at the time and the orders given to the local military authorities to respect American passports were believed to have removed all cause of complaint in this regard, and the Department is confident that the present recurrence of the question is not due to any change of the policy on the part of the Austro-Hungarian Government, but is merely due to oversight or misinformation on the part of the local officers, which the Imperial Royal Government will promptly take measures to correct.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.**Mr. Harris to Mr. Hay.*

No. 46.]

UNITED STATES LEGATION,  
*Vienna, September 30, 1899.*

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 40, under date of September 11, 1899. I note that in connection with the dispatches inclosed therein of the United States consul at Prague, Mr. Hugo Donzelmann, he names two cases wherein officers

<sup>1</sup> Not printed.

of Austria, having naturalized citizens of the United States under arrest, have refused to permit them to communicate with him or this legation, and I am instructed to bring Mr. Donzelmann's statements to the attention of the Austro-Hungarian foreign office with the request that these cases be investigated.

I beg to report on these cases as follows:

1. Case of Josef Schmid: Josef Schmid was born in Bohemia. In 1892, being 17 years of age, his father obtained from the Austrian Government a passport for the son, good for one year, to go to Germany. Almost as soon as the son reached Germany he emigrated to the United States. He was naturalized in Chicago on July 13, 1899, and immediately procured a passport and returned to the place of his nativity (Ronos by Caslan), and was arrested for failure to perform his military duty.

On August 21 Mr. Donzelmann wrote his dispatch, No. 52, to the Assistant Secretary of State, and also wrote to this legation, stating the arrest, and that his father reported to him that the son was not permitted to communicate with anybody; that he (the consul) had written to the authorities, but no answer had been made to his letter.

On the 26th following he wrote again, saying he had that day received a letter from the prisoner asking for the interposition of the United States Government. This letter was received on the 28th. And on the next day I instructed Mr. Donzelmann to visit the prisoner and report the facts to me.

On September 1 he reported that he had visited the prisoner, and found that he had been tried and convicted on August 26. He also said: "I investigated the claim that Schmid was not permitted to correspond with anyone, nor to see anyone, and the court informed me that such was usually the case as long as a prisoner was being held under the orders of the investigating judge."

Thereupon I framed a note to Count Goluchowski, stating the facts, pointing out that the arrest and sentence were in violation of the treaty of September 20, 1870, and asked for an immediate release.

I also stated that the consul at Prague informed me that "He (Josef Schmid) was held in close confinement and refused the right to communicate with the United States consul at Prague until August 26, the day of his trial and conviction." In the meantime Mr. Donzelmann was actively at work, having promptly taken the proper steps to bring the case before the attorney-general in Prague. And on September 11, he wrote me, that officer said the conviction was in violation of the treaty, but he was impotent to set the sentence aside; that this power resided only with the attorney-general of Austria in Vienna, who must present the matter to the court of cassation.

On the next day (12th) I wrote a second note to the Count Goluchowski, stating the facts as above and concluding: "I earnestly protest against this delay. I confidently submit to your excellency that the entire proceedings are null and void under the treaty of 1870. And I entertain no doubt that your excellency will direct that Mr. Schmid be at once released from prison and restored to his rights as an American citizen."

He was discharged on the 15th following by the judgment of the court of cassation. A translation of the judgment is inclosed herein.

On the 20th of September the Austro-Hungarian foreign office addressed a note to this legation, denying that there had been any



useless delay, stating that Schmid could make a claim for damages for the unlawful sentence under the law of March 16, 1892 (Imperial Law Bulletin, No. 64), and denying that he had been prevented from communicating with the consul, and supporting the denial by an affidavit of Schmid himself.

The fact is, upon his release he was rearrested for violating a provision of the criminal code, and this affidavit seems to have been taken while he was in prison under the last charge.

Inclosed please find a translation of Schmid's affidavit.

2. Blaha's case is under examination, and will duly be presented, in obedience to your dispatch, to the Austro-Hungarian foreign office.

I have, etc.,

ADDISON C. HARRIS.

[Inclosure 1.—Translation.]

*In the name of His Majesty the Emperor:*

The Imperial and Royal supreme court and court of cassation has decided this 13th day of September, 1899—under the presidency of the Imperial and Royal first president, Dr. Habietinek, in presence of the Imperial and Royal counselors to the court: Kittner, von Schrey, Dreszler, Dr. von Plügl, Kossoricz, Bossoneski, Hawlath, Dr. von Tommases, Dr. Tarlowski, the counselor of the supreme criminal court, Beleikowski, as judge, the Imperial and Royal secretary of the court, Krupsky, as secretary—upon the proposition of the Imperial and Royal general procurator to nullify the sentence of the Imperial and Royal circuit court of Kuttentberg of date of 26th of August, 1899, No. V VI  $\frac{441}{20}$ /99, by which Josef Schmid was found guilty of the crime mentioned in paragraph 45 of the laws of the 11th of April, 1889, No. 41, and therefore sentenced according to that paragraph to six weeks' close confinement and a fine of 100 florins, and in case of failure to pay such fine to be imprisoned an additional twenty days, and further, according to paragraph 389, St. P. O., to pay the costs of the trial; after hearing the argument of the reporter, Imperial and Royal counselor to the court Dreszler, the reading of the note from the office of the Imperial and Royal general procurator of the 11th of September, 1899, No. 2988, and the argument of the Imperial and Royal general procurator, Ritter von Cramer, as follows:

To accept the proposition of the office of the Imperial and Royal general procurator, made by it in order to preserve the laws and to set aside, according to paragraphs 33 and 292, St. P. O., the sentence of the Imperial and Royal circuit court at Kuttentberg of date 26th of August, 1899, No. V VI  $\frac{441}{20}$ /99, and has reached the following decision in the case itself:

To exculpate Josef Schmid, 24 years of age, unmarried, tailor in Favratec, from the charge made against him under paragraph 45 of the laws of date the 11th of April, 1889, No. 41, viz: Of having left the territory of the Austria-Hungarian monarchy for America about the year 1892 for the purpose of avoiding military duty here, according to paragraph 259, No. 3, St. P. O., and to discharge him from payment of the costs of the trial according to paragraph 390, St. P. O.

#### REASONS.

As shown by the documents presented, Josef Schmid, born on the 8th of October, 1874, at Favratec (district of Caslan), used the permission

to travel in Austria-Hungary and Germany, issued to him on the 20th of August, 1892, to emigrate to North America (Chicago) before the period of his liability to present himself as a recruit—beginning in 1895. After six years' stay in the United States he became a citizen there. As he did not care, he states, to make his permanent residence there, he returned to his native village in August, 1899, in order, as he assures, to make his permanent residence there and to perform his neglected military duty. The last intention, however, he did not carry out.

Upon the suggestion of the bezirkshauptmannschaft at Caslan he was arrested on the 14th of August, 1899, for having violated the military laws, put upon trial, and sentenced by the Imperial and Royal circuit court at Kuttensburg on the 26th of August, 1899, to six weeks' close confinement and a fine of 100 florins, and in case of failure to pay such fine to be imprisoned an additional twenty days, and further, to payment of the costs of the trial, according to paragraph 45 of the laws of date the 11th of April, 1899, No. 41. But as—according to articles I and II of the treaty between the United States of America and Austria-Hungary of date the 20th of September, 1870, a copy of which is contained in No. 74 of the Imperial Law Bulletin of the year 1871—the prosecution of said Josef Schmid was undoubtedly illegal, and as the verdict rendered against him was contrary to the principles of paragraph 41 of the criminal code, it is therefore null and void according to paragraph 281, No. 9 lit C, St. P. O.

The consulate of the United States of America at Prague requested therefore in its note of the 1st of September, 1899, under instructions from its Government, the immediate release of Josef Schmid. Schmid himself did not combat the sentence, and began to serve the term of his imprisonment.

Upon the proposition of the officer of the Imperial and Royal general procurator, the Imperial and Royal supreme court and court of cassation declares the judgment by which the said treaty and paragraph 41 of the criminal law were violated to be null and void, according to paragraphs 33 and 292, St. P. O., and liberates Josef Schmid, according to paragraph 259, No. 3, from the charge of having violated paragraph 45 of the military laws of the 11th of April, 1889, a copy of which is contained in No. 41 of the Imperial Laws Bulletin.

The Imperial and Royal supreme court and court of cassation, Vienna, 13th of September, 1899.

HABIETINEK.  
KRUPSKY.

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[Inclosure 2.—Translation.]

*Circuit Court at Kuttensburg, 12th September, 1899.*

In presence of

Counselor of the supreme court, Hoffmann.  
Ansenlant, Vitek.

Subject: Examination of Josef Schmid (Smid).

Josef Smid, summoned to state whether he has been denied permission during the period of his arrest for examination, either by the district court at Caslan or by this court, to write to the American consul at Prague, declares as follows:

I have not expressed the wish to write to the American consul at Prague, either at the district court at Caslan or at this court, nor have

I requested to be allowed to come into contact with him in any way, although I did have the intention of writing to him; but I kept postponing it, as I did not know in what direction this prosecution would be continued, and because I thought that as an American citizen I would not be punished.

Therefore I declare also that nothing has been refused me; I did not even write to a relative.

During the time of my arrest under sentence I wrote twice to the consul and once to my father without any hindrance; and I had also an interview with the American consul when he was at this circuit court.

Approved after the reading.

HOFFMANN.  
VITEK.

JOSEF SCHMID.

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*Mr. Hay to Mr. Harris.*

No. 53.]

DEPARTMENT OF STATE,  
*Washington, November 9, 1899.*

SIR: Referring to the Department's instruction No. 40, of September 11 last, relative to certain dispatches from the United States consul at Prague in regard to the cases of several naturalized American citizens who were arrested by the Austrian authorities for the nonperformance of military service, I have to acknowledge the receipt of your dispatch No. 46 of September 30 last, with special reference to the cases of Josef Schmid and Frank Blaha.

In reply I have to inform you that your action in regard to the cases in question is fully approved by the Department.

You are requested to watch such matters carefully and to act energetically with regard to them, claiming all rights under the treaty with the promptness contemplated by the Tripp-Goluchowski understanding of 1895-96.

I am, etc.,

JOHN HAY.

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**MILITARY SERVICE—CASE OF EFFRAIM RUBIN.**

*Mr. Hay to Mr. Harris.*

No. 25.]

DEPARTMENT OF STATE,  
*Washington, June 24, 1899.*

SIR: I inclose for your information a copy of a letter to the Department from Mr. Efraim Rubin, who claims to be a naturalized citizen of the United States, and who appears to have been arrested upon his return to Austria, because he had emigrated while military service was due from him.

You are requested to investigate the case and to report the result to the Department, taking in the meantime any action for the relief of Mr. Rubin that you may find practicable.

I am, etc.,

JOHN HAY.

.[Inclosure.]

*Mr. Rubin to Mr. Hay.*

KOLBUSZOWA, AUSTRIA, June 5, 1899.

My situation obliged me to let your honor know what had happened to me in the Kingdom of Austria-Hungary, and I hope that your honor will hear the cry from a man who was treated with injustice, because I am a citizen of the United States of N. America.

In the year 1897, in the month of June, I visited my family in the country where I was born, in the city of Kolbuszowa, Galicia, Austria, and according to the laws of Austria I was ordered from the Bezirkshauptmann in the city of Kolbuszowa to produce my passport and citizen paper, and I have make a declaration in writing that I am a citizen of the U. S. of N. America, and my passport and citizen paper I have delivered to the Bezirkshauptmannschaft in the city of Kolbuszowa.

And on the 12th of July, 1897, I was going to ask that my papers shall be returned to me; I was arrested and they have kept me in prison eight days, from the 12th to the 20th of July. And on the 20th of July, 1897, I was sent before the military commissioners in the city of (Koll) Rzeszowa, and they have decide that I shall serve in the standing army in Austria five years, 3 years regular and 2 years punishment, because that I have say that I am a good citizen of the U. S. of America. And on the 29 of July, 1897, I received a decree from the Bezirkshauptmannschaft in the city of Kolbuszowa that I am released from the obligation to perform military duty in Austria, on account of the treaty between the Kingdom of Austria-H. and the Government of the U. S. of North America, from the year 1870-1871, that is, writing in the Polish language.

And in a couple of days after I was charged again to produce all my papers from the U. S., with the decree from the 29 of July, 1897, but I refused, and on the advice from the embassy in Vienna I have produce my passport and citizen paper, and I (was) compelled to stay in Austria to the month of February, 1898, and my papers was returned to me.

The time from my passport is to end on the 10th of June, 1899, No. 107 from the embassy in Berlin. Now I need your help and your advice, because during that time I lost everything what I have—money, and honour, and my position—and I have done this to save the honour of the U. S., and not to run away before I was released. Because I have hearken when the people from that country spoken. See the protection from the Government of the U. S., their citizen in prison and obliged to perform military duty in Austria with punishment.

But even in the day from my great trouble I have not lost my expectation to the Almighty God in heaven that I, a citizen from a right and just State, and I was not afraid to tell the judge in that case that the Government of the U. S. have enough power to see that their treaty shall be respect(ed) even in Austria, and that justice will be done.

My damage I will count of twelf thousand (12,000) dollar.

Before I close my writing I have pleased to the Almighty God in heaven who have given power to our great and honourable President, Mr. T. Mackinly, and to his adviser and officer, to punish the cruel

nation from Spain with their Government, he shall give me favour in your eyes to just that little case as a great case, and to see that justice shall be done to me.

I am, very respectfully, a citizen of the U. S. of North America,  
 Efraim Rubin.

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*Mr. Harris to Mr. Hay.*

No. 33.]

UNITED STATES LEGATION,  
*Vienna, September 1, 1899.*

SIR: In reply to your dispatch, No. 25, of the 24th of June, 1899, in the matter of Efraim Rubin, I have the honor to submit the following statement:

Mr. Efraim Rubin was born in Kolbuszowa, Galicia, on June 10, 1863. On April 11, 1886, he emigrated to the United States. He was naturalized in New York on October 23, 1891, his permanent residence being No. 45 Clinton street, New York City. By occupation he is an insurance agent. In September, 1895, he left the United States and came to his native city, where he remained some five or six months. He then went to South America for a year and returned to Europe and took a passport, No. 706, issued by the embassy at Berlin on June 10, 1897. He then returned to Kolbuszowa. A few days later, being informed privately that he was about to be arrested for failure to perform his military duties, he went to the "Bezirkshauptmann" and exhibited his passport and certificate of naturalization, and also, at the request of such officer, on July 7, 1897, made a written statement touching his citizenship, leaving his papers with the officer.

Five days later Rubin called for his papers and stated he wanted to return to America. The papers were withheld, although, Rubin says, the "Bezirkshauptmann" assured him of "his perfect freedom." He was then arrested by a gendarme and delivered to the civil court of that district and held in confinement for a time, when the district attorney decided that the district court had no jurisdiction, and Rubin was turned back to the Bezirkshauptmann, who ordered him to appear before the military board at Rzeszow; which board, for some reason, at once turned him back to the Bezirkshauptmannschaft, who then released him because, under the provisions of the treaty of September 20, 1870, he was not subject to render military service. Mr. Rubin has written and visited the legation, insisting that I shall in his behalf make a claim upon the Austrian Government for damages.

He states he was imprisoned for nine days, for which he desires a demand be made of \$9,000, to which shall be added \$3,000 by way of solatium. I beg leave to ask instructions in this behalf.

His insistence is that, upon exhibiting his papers to the Bezirkshauptmann, he said that Rubin was not subject to military service; that he was the highest authority in that district; yet after that the inferior officers subjected him to arrest. And for this reason he claims damages.

I have, etc.,

ADDISON C. HARRIS.

*Mr. Adee to Mr. Harris.*

No. 41.]

DEPARTMENT OF STATE,  
*Washington, September 20, 1899.*

SIR: Referring to previous correspondence relative to the military-service case of Mr. Efraim Rubin, a naturalized American citizen of Austrian birth, I have to acknowledge the receipt of your dispatch No. 33, of the 1st instant, concerning the application of Mr. Rubin for the sum of \$9,000 damages on account of his arrest and imprisonment by the Austrian authorities for the nonperformance of military duty, and for the sum of \$3,000 in addition by way of solatium.

In reply I have to say that it is not the practice of the Department to present claims arising out of the military arrest and detention of naturalized American citizens who return to the country of their birth.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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**PASSPORT—REFUSAL TO ISSUE TO MRS. ELENORE EISEN-  
SCHIMMEL.**

*Mr. Harris to Mr. Hay.*

No. 42.]

UNITED STATES LEGATION,  
*Vienna, September 21, 1899.*

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

1. In 1848 a native of Bohemia, then a lad, emigrated to the United States. His surname was Eisenschimmel, but he cast this off and took the surname of Alexander, by which he was there known, as appears by his membership certificates in the Masonic and other orders.
2. On October 5, 1868, he was naturalized in one of the district courts in the State of Nevada, under the name of E. Alexander.
3. In 1872 he returned to Austria, and resumed the name of Eisenschimmel, but there is no evidence that he intended thereby to abandon his allegiance to the United States.
4. In May, 1874, he married a subject of Austria, in Vienna, where he resided continuously, with his family, until his death, which occurred in 1888. During his residence in Vienna he carried on the business of a photographer.
5. A widow and three children, issue of the marriage, survived him. They have since the death at all times resided as a family in Vienna. The children are now 22, 20, and 19, respectively.

The family have at least sufficient means to support them comfortably, but no part of the estate is in the United States, unless a few shares of stock in a mine be so considered, and that is for sale.

Mr. Alexander never returned to the United States after his arrival here in 1872, and no member of his family has ever been in America.

6. His widow, Elenore Eisenschimmel, now applies to this legation for a passport, and exhibits a passport, numbered 714, issued herein on September 28, 1896, and states that she was then told that when that expired she would be entitled to another.

I am entirely satisfied as to the identity of her husband. I shall not

question the fact that, at the time of the marriage, the husband was a citizen of the United States, for there is no evidence that he then had the intention of abandoning his adopted nationality. It would seem to follow, therefore, under section 1994, Revised Statutes of the United States, that by the marriage the wife ipso facto became also a citizen of the United States.

Whether this status of citizenship continued to exist at the times the several children were born, so that they may, on coming of age, elect to be citizens of the United States, is not present for consideration.

The only question is whether Mrs. Elenore Eisenschimmel is entitled to a passport.

I have declined to grant one. The grounds may be summarized as follows:

First. The continuous residence in Vienna by the husband from the marriage to his death—a period of fourteen years—tends strongly to show that he had abandoned his allegiance to the United States, and that her status, under the circumstances, followed her husband. They had at all times ample means to enable the family to go to America. The only reason now put forward to meet this presumption is that their parents were living in this country, and both the husband and the wife wished to be with them.

Second. The conduct of the applicant since the death of the husband tends to the same conclusion. She had the means at command, on becoming the head of the family, to go to the United States. She elected to remain here, and educate the children in the schools and under the influence of this Monarchy.

Third. In her previous verified application for a passport she stated that she would, within two years, go to the United States and perform her duties of citizenship. She is unable to give a substantial reason for the failure to observe this obligation. That put forward is that she did not want to take the children from their schools in Vienna.

Under these circumstances it would seem to encourage bad morals, if not worse, to condone the breach and issue a second passport. Mrs. Eisenschimmel is an educated and cultivated woman, and I told her at the time of declining to issue the passport that I would submit my action to you for review and instructions.

This case affords the opportunity to say that I find it not uncommon for native-born subjects of this Monarchy to emigrate to and become naturalized citizens of the United States, and then return to this country and biennially renew their passports, making at such times the declaration of intention to return to and assume the duties of citizenship in the United States, which is not kept. It seems to me this practice ought to be broken up. If such intention is not fulfilled during the life of a passport, I submit, another should not be issued until this legation is satisfied that there was good reason why the holder of the passport did not return to the United States; and also further satisfied that the applicant intends, in good faith, if given another passport, to keep the obligation and return. It also appears to me that in such cases the second or other subsequent affidavit is not conclusive; but the legation may and should make further investigation and act upon the whole case.

I will be pleased to receive specific instructions in this regard.

I have, etc.,

ADDISON C. HARRIS.

*Mr. Hill to Mr. Harris.*

No. 44.]

DEPARTMENT OF STATE,  
*Washington, October 14, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 42, of the 21st ultimo, reporting your refusal to issue a passport to Mrs. Elenora Eisenschimmel.

The Department approves your action in the matter.

Your remarks in reference to applicants for passports who fail to fulfill their declared intention to return to the United States are very sensible and indicate the proper course to be followed in such cases.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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**PASSPORT OF JOHN WILSON—CANCELLATION OF.**

*Mr. Harris to Mr. Hay.*

No. 44.]

UNITED STATES LEGATION,  
*Vienna, September 29, 1899.*

SIR: I beg to report that I have this day cancelled passport No. 25, issued by this legation to John Wilson on June 6, 1899.

He made personal application for this passport, produced his passport No. 284, issued to him by the embassy in Paris on September 27, 1898, which he surrendered (and is now on file in the Department of State), swore he was born and still resided in Virginia City, Nev., and that he desired the passport for traveling in Russia. He also produced other papers which seemed to prove his citizenship and identity, but which were returned to him at the time.

Shortly afterwards he was arrested at Lemberg for violating some of the provisions of the criminal code, and wrote to this legation for assistance and protection. The idiomatic character of these letters led me to doubt that he was a native-born American, and I wrote the authorities having him in arrest to hold his passport until I could investigate the question.

It appears that in Paris he swore he was born at Bloomington, Ill., and resided at Brooklyn, N. Y., while the officers of the court at Lemberg write, under date of September 21, that Wilson now states he was born in Chicago. They also add that this same man, under the name of Julius Wilson, alias John Walker, alias Jules Barden, alias Julius Walker, was, on February 11, 1887, in the criminal court in Vienna, convicted of the crimes of fraud and theft, sentenced to one year's imprisonment and to exile from Austria; nevertheless he has returned and is held and will be tried for other offenses against the criminal code.

On the 14th instant, I sent by registered post a letter to Wilson, asking for an explanation of the contradictory statements found in his applications, as above shown, but have received no answer.

The canceled passport which was taken from Wilson by the district court at Lemberg and which, upon my request, was returned to this legation, is herewith inclosed.

I have, etc.,

ADDISON C. HARRIS.



*Mr. Harris to Mr. Hay.*

No. 45.]

UNITED STATES LEGATION,  
*Vienna, September 30, 1899.*

SIR: I beg to supplement dispatch No. 44, concerning John Wilson, by stating:

The legal authorities at Lemberg write that they desire the legation to turn over to them the papers on file here, in order that they may prosecute Wilson under the Austrian law for fraud.

By the law of the monarchy it is a crime to have a document fraudulently obtained for use in one's possession.

I have no doubt that Wilson might be put on trial in some district court of the United States under section 1750, Revised Statutes United States, as the application at Paris, or here, is perjury, and perhaps both are. It will be noticed in his application for a passport in Paris he stated he took a former one at Cairo. It might be well to examine that application.

The Austrian authorities do not claim that they have jurisdiction to punish perjury committed in this legation, but that the crime is for having a passport in possession fraudulently obtained.

I hesitate to give the papers over without direction to do so, especially as they will be needed if you determine to proceed under section 1750.

I have, etc.,

ADDISON C. HARRIS.

*Mr. Hay to Mr. Harris.*

No. 50.]

DEPARTMENT OF STATE,  
*Washington, November 7, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 45, of September 30 last, stating that the Austrian authorities at Lemberg request you to turn over to them the papers on file in your legation relating to John Wilson's passport in order that they may prosecute him under the Austrian law against fraud, the fraud in question consisting in Wilson's having in his possession for use a document fraudulently obtained.

You request to be instructed in the matter.

In reply I have to say, as Wilson is in Austria it is impossible to try him in the United States under section 1750 of the Revised Statutes, to which you refer, or under any other section.

Perjury is not one of the offenses included in our extradition treaty with Austria, and even if it were, this Government could not demand his extradition for an offense committed in Paris or Vienna.

If a foreign court, in its endeavor to convict a person of the offense of possessing a passport said to have been obtained by fraud, can adjudge whether the passport was rightly or fraudulently obtained, it could, in like manner, assume to pass upon the legality of an act of naturalization, an assumption that we have always strenuously contested.

In view of the foregoing, I can not authorize you to assist the Austrian authorities in the prosecution of Wilson.

I am, etc.,

JOHN HAY.

## NATURALIZATION TREATY—PROPOSED STEPS TO MODIFY.

*Aide mémoire.*AUSTRIAN LEGATION,  
*Washington, November 7, 1899.*

The Austro-Hungarian Government are desirous to enter into negotiations with the United States Government with regard to a modification of the naturalization treaty of September 20, 1870, and have charged me to ascertain whether the United States Government are willing to do so.

The difficulties and complications arising from that treaty are well known to the State Department, as its published diplomatic correspondence for the last ten years bears testimony to the fact.

For quite a large number of years a numerous class of people in Austria-Hungary have been making use of the stipulations of the treaty for becoming, nominally, citizens of the United States, with the sole object of living in Austria-Hungary in defiance of its military laws. After having obtained naturalization in the United States at an early age they have returned to the country of their origin, intending to live and remain there permanently, but invoking their American citizenship when called upon to fulfill their military duties.

The United States Government can have no possible interest in the acquisition of a class of citizens who fulfill none of their duties of citizenship toward them, and look upon American citizenship merely as a loophole to avoid the laws of the country in which they intend to live. Nevertheless they feel obliged to extend their protection to these *mala fide* citizens, and the Austro-Hungarian Government, bound by the stipulations of the treaty, had no other way to escape from the demoralizing influence of these people but by expelling them, in virtue of the right of every government to close its territory against undesirable aliens.

The Austro-Hungarian Government think that the difficulties arising for them at present from the treaty could be obviated if either the obligation to recognize naturalization obtained by citizens of one contracting party in the territory of the other, as stipulated in Article I of the treaty, would be made conditional on their expatriation not having taken place in contravention of the laws of the country of their origin, or if the principles expressed in Article II of the treaty, that naturalized citizens on return to their territory of the other party, remain liable to trial and punishment for actions committed before their emigration would be freed from the limitations of the last alinea of said article.

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*Mr. Hay to Mr. Hengelmüller.*

Personal.]

DEPARTMENT OF STATE,  
*Washington, November 9, 1899.*

MY DEAR MR. HENGELMÜLLER: I beg to send herewith a memorandum in reply to the aide-mémoire touching the desire of the Austro-Hungarian Government to amend its naturalization treaty to the United States.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Aide-mémoire.*

The grievance complained of in the Austro-Hungarian memorandum is male fide naturalization of Austro-Hungarian subjects for the mere purpose of escaping military duty. The remedies suggested are two:

First. Amending the naturalization treaty so that the recognition of naturalization be made to depend on the previous Austro-Hungarian consent thereto. As to this, if the treaty were so amended, it would in effect abrogate it, since it would virtually relegate the whole question to the local laws of Austro-Hungary.

Second. Amending the treaty by omitting the last sentence of article 11, which exempts naturalized citizens from punishment for nonfulfillment of military duty in all cases save the three cases thereinbefore specified. These three specifications would expressly subject to punishment offenders falling within that description, and the saving clause being abrogated, the effect would be to relegate the whole question of protection and of punishment in all such cases to the Austro-Hungarian tribunals.

Either amendment would annul all the beneficial provisions of the treaty as regards subjection to military duty.

There are doubtless grave abuses of the privileges of naturalization. But while there would be no difficulty in providing a theoretical remedy, the practical difficulty in determining whether a man has become naturalized with such fraudulent intent or not is very great. It is so difficult that no rule has ever been formulated by statute defining naturalization, and the attempt to do so, directly or indirectly by treaty, would probably be futile. Only one phase of the difficulty, however, is suggested by the Austro-Hungarian memorandum.

## BELGIUM.

### TRAFFIC IN SPIRITUOUS LIQUORS IN AFRICA.

*Mr. Hill to Mr. Joostens.*

No. 155.]

DEPARTMENT OF STATE,  
*Washington, January 6, 1899.*

SIR: I have considered your note of the 22d ultimo, in relation to the representation of the United States Government at the conference proposed to be held at Brussels for proceeding with the revision provided for by article 92 of the general act of July 2, 1890, concerning the regulation of the traffic in spirituous liquors in Africa.

Your present note importantly modifies the communication addressed to my predecessor on the 10th of January, 1898, by Count de Lichtervelde, in that the original proposition to confine the proposed conference to the representations of those signatories of the general act of 1890 having territorial possessions within the limits of the zone embraced under the general act on the western coast of Africa, now contemplates the invitation of all the signatory powers of the general act, as well as those of the nonsignatory States who have since definitely adhered to the general act. It is explained that this collective invitation does not necessarily imply the participation of all the signatory or adhering powers, but that such powers as should express a desire to take part in the conference will of right be admitted thereto, with the result of extending the sphere of action of the proposed conference to comprise the east as well as the west coast of Africa.

In bringing this announcement to the notice of the Government of the United States, you inquire, pursuant to instructions of your Government, whether it is the purpose of the United States Government to take part in the coming conference, or whether, deeming the question to be one that does not directly interest it, it would prefer to abstain from sending a representative plenipotentiary, while reserving the privilege to adhere to the decisions that may be adopted by the conference.

In Mr. Sherman's reply, of January 13, to Count Lichtervelde's note of January 10, 1898, and in communicating to the United States representative in Belgium the correspondence then had, it was contemplated by this Government that Mr. Storer should take suitable occasion to express to any members of the conference with whom he might speak on the subject expression of the desire of the Government of the United States to see action taken to control and so far as possible repress the baneful traffic in liquors among the African tribes, thus further accentuating the declarations made by the United States delegate at the conference which framed the general act of 1890. The views then put forth as to the moral duty of the conference to check the destructive trade in ardent spirits in the interior of the African continent remain unchanged.

The circumstance that the United States Government possesses no territorial interests within the zone concerning which the proposed conference is expected to take action would seem to make it unnecessary for the United States to be represented in the coming conference by a specially accredited plenipotentiary; but the United States minister in Belgium will be instructed to act, so far as may be possible, upon the lines of the instructions sent to him a year ago, and to use all suitable means of impressing the conference with the hope of this Government that its conclusions and regulations will be so practical and effective in the direction of repressing the liquor traffic as to invite the adherence of this Government to the formulated results.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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*Count de Lichterveld to Mr. Hay.*

BELGIAN LEGATION, *New York, July 9, 1899.*

MR. SECRETARY OF STATE: The conference charged with proceeding to the revision of the duties on spirituous liquors in Africa met at Brussels on the 20th of April last, and closed its labors on the 8th of June following.

I have the honor to transmit to your excellency the text of the convention resulting from the deliberations of the high assembly and the collection of the acts of the conference.

The examination of these documents will enable your excellency to understand the importance of the decisions adopted by the conference. They constitute a remarkable increase over the tariff now in force, the minimum import duty fixed by the general act of 1890 having been raised in the new agreement to more than four times the previous rate.

This result can not fail to be welcomed with deep satisfaction by all who are interested in the great cause of the regeneration and preservation of the native peoples of Africa.

The Government of His Majesty the King of the Belgians was commissioned by the conference to procure the adhesion of those States which, like the United States of America, did not think proper to have themselves represented in it, but which reserved the right to adhere subsequently to the decisions that it might adopt.

The Government of His Majesty the King of the Belgians is confident that the American Government will not hesitate to approve the clauses of the convention which is (now) submitted to it, and that it will give its adhesion.

I beg your excellency to inform me as soon as possible of the decision of the American Government in the matter, and I avail myself, etc.

LICHTERVELDE.

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*Mr. Hay to Count de Lichtervelde.*

No. 196.]

DEPARTMENT OF STATE,  
*Washington, July 23, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, inclosing the proceedings of the conference which met

at Brussels on April 20 last, for the purpose of revising the regulations of the liquor trade in Africa, and the convention which resulted therefrom, to which the accession of the United States is requested.

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

Accept, etc.

JOHN HAY.

#### PASSPORT—CASE OF HENRY LOUIS BECKER.

*Mr. Storer to Mr. Hay.*

No. 170.]

LEGATION OF THE UNITED STATES,  
*Brussels, January 21, 1899. (Received February 3.)*

SIR: I have the honor to ask instructions in the following application for a passport.

On 19th March, 1896, Henry Louis Becker applied for a passport to my predecessor, Mr. Ewing, being then holder of a passport issued to him May, 1893, by Secretary of State Gresham.

The records of this legation show that Mr. Becker, on his application here on the form of "Person claiming citizenship through naturalization of parent," made oath that he was born in Holland in 1848 and emigrated with his father to the United States in 1853, where his father was subsequently naturalized and resided until his death, in 1893; that the applicant came abroad in May, 1893, with the passport from the Department above referred to; that he intended to return to the United States within two years from the date of the said application. On this application a passport, No. 70, from this legation was issued to him and his former passport from the Department taken up and transmitted. He applies now, 18th January, 1899, for a new passport in exchange for his passport which expired March 20, 1898.

From his oral statement the applicant has not been to America since May, 1893, at all; has not returned to America within two years from March, 1896, as he declared his intention to do; and, while entirely ready to make a similar declaration now, has neither explanation nor any definite intention to give on this subject. The applicant himself never made any declaration of intention and was never natu-

ralized on coming of age, but, as he says, relied on his father's naturalization papers, both for voting in Brooklyn, as he claims to have done several times before 1893, and to obtain his original passport from the State Department in 1893. He has resided in Holland and Belgium, and is now a resident of Brussels, and is a manufacturer of scientific instruments as a "company" under the laws of Belgium. On making this application he first informed the clerk of the legation that he desired a passport, as he was going to Germany. To myself, when questioning him, he stated that he wanted it at once, in order to go to Russia. On declining to issue a new passport immediately he demanded back his old one, saying he could apply at some other legation. This demand was not complied with; and the old passport remains at the legation.

I respectfully ask instructions for the guidance of this legation in this case and in the future on the following points:

1. Does paragraph 153 of instructions to diplomatic officers direct that the existence of a former passport precludes inquiry outside the contents of the original application as to the right of applicant to a passport?

2. Does the presumed presentation of naturalization papers on application for a passport in 1893 always furnish sufficient evidence of their existence at all times in the future?

3. What is the effect of the statement of the applicant that he has never been naturalized?

4. Under the facts ascertained and reported shall this legation in the present case issue a new passport?

I have declined to issue such passport without obtaining the instructions asked for above.

I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

No. 227.]

DEPARTMENT OF STATE,

*Washington, February 4, 1899.*

SIR: Your dispatch, No. 170, asking instructions in regard to the issuance of a passport upon the application made to you by Mr. Henry Louis Becker, has been received.

\* \* \* \* \*

Upon this statement of facts you ask—

1. Does paragraph 153 of instructions to diplomatic officers direct that the existence of a former passport precludes inquiry outside the contents of the original application as to the right of applicant to a passport?

2. Does the presumed presentation of naturalization papers on application for a passport in 1893 always furnish sufficient evidence of their existence at all times in the future?

3. What is the effect of the statement of the applicant that he has never been naturalized?

4. Under the facts ascertained and reported shall your legation in the present case issue a new passport?

The facts stated in Mr. Becker's present application as recited by you agree substantially with those appearing in his application of

April 22, 1893, upon which passport No. 1247 was issued to him May 3, 1893, and of which application I inclose a copy for your information, together with Mr. Becker's supplementary affidavit that he was a minor at the date of his father's naturalization, a circumstance which appears in the body of his application.

Answering your first and second inquiries, it is usually expected that a person claiming citizenship through the naturalization of parents should, on each occasion of applying for a passport, produce the evidence by way of corroboration. The possession of a Department passport is, however, *prima facie* evidence of the applicant's having previously produced to the Department the proof of the parents' naturalization; and inability to produce that evidence at each subsequent application for a passport need not occasion refusal to grant one unless the circumstances of the case should raise such reasonable doubt in the mind of the envoy as to cause him to make further inquiry of the Department.

As to the third inquiry, the fact that a person claiming citizenship through the naturalization of a parent was not himself independently naturalized is quite immaterial. (See sec. 2172, Revised Statutes, which provides that the "children of parents \* \* \* being under the age of 21 years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof.")

Answering your fourth inquiry, it does not appear from your statement that Mr. Becker was warned by your predecessor at the time of the issuance of the legation passport, March 19, 1896, that failure to return within the declared term of two years might bar renewal of the passport.

Under the circumstances if Mr. Becker shall satisfactorily explain the causes preventing the execution of the purpose declared by him in 1896, and shall satisfy you of the bona fides of his intention now to return within two years hence, here to dwell and perform the duties of good citizenship, you would be warranted in issuing him a passport accompanied by a distinct warning that failure to carry out that intention would prejudice, and probably bar, the granting of any future passport to him while he continues to dwell abroad.

I may add that Mr. Becker's statement to you that he would apply to some other legation for a passport is calculated to throw doubt upon the good faith of his present declaration to you regarding his intention to return.

Several cases of such evasion have been reported to the Department in the past, but it is not found practicable to apply a remedy by notifying all other missions of the rejection of a passport application by one of them. The Department's circular of February 25, 1897, of which copy is inclosed for your more convenient information, requires applicants to declare whether they have applied elsewhere and been refused a passport. The good judgment of each envoy is trusted to scrutinize passport applications presented to him with a view of eliciting the facts and acting accordingly.

The retention of an applicant's former passport in case of a refusal to issue a new one is, under the Department's instructions, warranted when the facts elicited show that the holder has been illegally naturalized, and is therefore wrongfully in possession of such formal



certification of citizenship. To retain a regularly issued passport when no fraud appears, and when its return is demanded by the party, is a doubtful proceeding, it being the property of the holder.

I am, etc.,

JOHN HAY.

*Mr. Storer to Mr. Hay.*

No. 175.]

LEGATION OF THE UNITED STATES,  
*Brussels, February 21, 1899.* (Received March 3.)

SIR: I have the honor to acknowledge receipt of your instruction, No. 227, bearing date February 4, 1899, with its inclosures.

The responsibility in the important duty of recognizing those who are entitled to the official protection of our Government while residing in other countries—so largely left by the law and departmental regulations to the discretion of individual diplomatic representatives—and my own observation of frequent attempts to impose on this discretion for the sole purpose of evading obligations perhaps justly due to governments other than our own, must justify my writing again on this subject.

An instruction from the Department, not to this legation (presumably addressed to the embassy at Paris), dated November 4, 1898, copied and widely noticed in journals in Europe generally read by Americans, proceeded to lay down a general rule of conduct for guidance in the issue of passports. That letter seemed to establish a rule that satisfactory explanation of failure to return to America within two years—as the applicant under oath had stated was his intention—and satisfactory evidence of a reasonable and bona fide intention not again to be chargeable with similar failure in the future, was what each diplomatic representative was entitled to have on an application for renewal.

With respect, I venture to submit that the precise point in the present case that induced me to ask the opinion of the Department was whether, having in view this statute, section 2172, any one made American citizen solely by the naturalization of his father, continuously living in Europe since his return thither with his family, who has founded a manufacturing association under the laws of a foreign country, in the name of which he carries on business, could for himself and his family continue to renew the protection of a United States passport? In other words, could the applicant be considered as "dwelling in the United States," so as to come within the requirements of section 2172, or should he fall under the cases given on pages 113 and 159 of the Passport Digest, and follow these recommendations in taking out naturalization papers for himself? The remark of your instruction, that it nowhere appears the applicant was warned by my predecessor in March, 1896, that a failure to carry out his sworn intention might bar a renewal of his passport, is absolutely correct, but I submit that two years hence, when he again applies for protection from the operation of the laws of Belgium, it will nowhere appear that this warning was given him by me in 1899, and precisely the same responsibility and doubt will then be thrown on this legation then that is now sought to be settled once for all by departmental instruction.

The transcripts inclosed in your instruction now show that in April, 1893, oath was made that the permanent residence of the applicant

was Bloomfield, N. J., while in March, 1896, he swore his permanent residence was Brooklyn, N. Y.—this without personally being in the United States between those dates. Other discrepancies in the application are frequent but not, in my judgment, important, except as showing an instance of the customary loose way in which the oaths taken by applicants for passports are regarded by them, which only actual experience in issuing passports can fully appreciate.

My sole desire in again putting this case into correspondence is to obtain such guidance as may diminish the danger of the discretion of our legations being imposed on, and save the consequence to the Department of additional labor in the future.

I have, etc.,

BELLAMY STORER.

*Mr. Hay to Mr. Storer.*

No. 232.]

DEPARTMENT OF STATE,  
*Washington, March 6, 1899.*

SIR: Your dispatch, No. 175, of the 21st ultimo, in further relation to Mr. Henry Louis Becker's application for a United States passport, has been received and your comments in regard thereto noted.

The conflicting statements as to Mr. Becker's domicile in the United States which you report, the lack of evidence of his purpose to return here to dwell, and the apparent inconsistency of the conditions of his indefinite residence abroad and of his founding a manufacturing establishment under foreign laws with the holding of a bona fide and realizable purpose on his part so to return and discharge the duties of citizenship, seem to warrant your withholding the renewal to him of a passport.

The press publication under date of November 4, 1898, to which you refer as laying down the rule in regard to the biennial renewal of passports, was not, as you surmise, an instruction to the embassy at Paris, but was a letter addressed to a Mr. F. Clark in answer to inquiries made by him from Paris under date of October 25, 1898. It is understood that Mr. Clark communicated that letter to the Paris edition of the New York Herald, but the publication therein has not come to the Department. A copy of the letter in question is herewith sent for your more convenient perusal.

[With regard to your inquiry as to whether a person residing abroad could be considered as "dwelling in the United States," so as to come within the meaning of section 2172, Revised Statutes, I would say that this passage has reference merely to the residence of the minor, who, to be naturalized under the statute, must be "dwelling in the United States" either at the time of the parent's naturalization or afterwards during his minority. The phrase clearly could not be construed to mean that the person must always be "dwelling in the United States" in order to be entitled to citizenship. By such interpretation a person claiming citizenship through the parent's naturalization would be precluded from asserting citizenship when not actually within the jurisdiction of the United States. A person properly claiming naturalization under this statute (2172, R. S.) is as completely naturalized as if he had complied with the conditions of the general naturalization laws of the United States, and would not, if he left the jurisdiction of the United States, have to comply with the requirements of Revised Statute 2167,

by taking out naturalization papers for himself, as you seem to think possible.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Hill to Mr. Clarke.*

DEPARTMENT OF STATE, *November 4, 1898.*

SIR: The Department has received your letter of October 25, in which you ask by what authority the validity of a passport is limited to a period of two years from its date, whether it is competent for an American representative abroad to refuse one to a native-born citizen who declines to state an intention of returning to the United States, and whether you can obtain one direct from this Department while you are in Paris.

In reply, you are informed that the granting of passports by this Government is, under section 4075 of the Revised Statutes of the United States, permissive, and not mandatory, and they may be refused when circumstances warrant such action. By a circular issued September 1, 1873, the Department ordered that the duration of passports should be limited to two years from the date of their issuance, and this ruling has been in force ever since. One of the objects of prescribing it was to secure at reasonable intervals evidence of the conservation of American citizenship by persons residing indefinitely abroad. Under the law (section 2000, Revised Statutes of the United States) naturalized and native-born citizens are required to receive from this Government the same protection of persons and property while they are abroad. It would, therefore, be obviously improper for this Government to make a distinction in favor of native-born citizens in the duration of its passports.

Between the legal status of citizenship and the right of continued protection during indefinitely prolonged sojourn abroad the executive authority of the United States draws a clear distinction in exercising its statutory discretion to issue passports as evidence of the right to protection. The relation of the citizen to the state is reciprocal, embracing the duties of the individual no less than his rights, and the best evidence of the intention of an applicant for a passport to discharge the duties of a good citizen is to make the United States his home; the next best is to shape his plans so as to indicate a tolerable certainty of his returning to the United States within a reasonable time. If the declared intention to return be conspicuously negatived by the circumstances of sojourn abroad a passport may be withheld. There is no fixed term of foreign residence by which the right to receive a passport may be decided. Each case must be decided by the circumstances surrounding it.

By a rule of long standing, freshly affirmed by the President of the United States, in the "Rules governing the granting and issuing of passports in the United States," prescribed May 21, 1898, "a citizen of the United States desiring to secure a passport while he is temporarily abroad should apply to the diplomatic representative of the United States in the country where he happens to be."

I am, sir, etc.,

DAVID J. HILL,  
*Assistant Secretary.*

**RÉGIME APPLIED IN BELGIUM TO PRESERVED AND SALTED MEATS.**

*Count de Lichterveld to Mr. Hay.*

LEGATION OF BELGIUM,  
*Washington, January 26, 1899.*

DEAR MR. HAY: In compliance with the desire which you were pleased to express to me this morning, I hasten to communicate to you, unofficially, a copy of the letter which I have received from Brussels relative to the passage in the President's message concerning the régime applied in Belgium to preserved and salted meats.

I also send the inclosures which show what that régime is.

Be pleased to accept, etc.,

LICHTERVELD.

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[Inclosure.]

The terms in which Mr. McKinley has expressed himself on the subject of the relations between the United States of America and Belgium, and the interest which he manifests, especially in the development of the transit trade, via Belgium, of American goods, have specially attracted the attention of the King's Government, which thinks that it therein sees evidence of the friendly disposition of the American Government toward us.

I need not tell you that the disposition of the Belgium Government is the same, and that on its part it will spare no effort to promote the development of commercial relations between the two countries.

The President's message alludes to difficulties met with by the exportation to Belgium of salted or preserved meats from the United States of America. When examined in a fiscal and sanitary point of view the régime applied in Belgium to those goods involves no measure that can be considered as a restriction of importation. I think it well to point out to you exactly what the bases of that régime are.

Preserved meats which have been simply cooked, smoked, or salted, are exempted from the payment of any duty on their importation into Belgium. It is only when they are otherwise prepared that they pay, according to circumstances, a duty of 15 francs or 12 francs per 100 kilograms. You will find herewith the text of the custom-house regulations on this subject.

In a sanitary point of view prepared or preserved meats from foreign countries are merely subjected to an examination by experts, which enables the competent authorities to be sure that the goods imported are suitable for consumption, and that they may without danger be sold to the public for food. These requirements are purely hygienic precautions, and their application is general.

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**AMERICAN CATTLE—IMPORTATION INTO BELGIUM—DUTIES  
IMPOSED IN UNITED STATES ON BELGIAN SUGARS.**

*Mr. Storer to Mr. Hay.*

No. 185.]

LEGATION OF THE UNITED STATES,  
*Brussels, March 29, 1899. (Rec'd April 14.)*

SIR: I have the honor to report that I have just received a visit from the minister of foreign affairs at the legation, who informed me that the royal decree revising the prohibition of the importation of American cattle will be officially promulgated during the first week of April. He at the same time handed me a statement of the views of the ministry of finance on the question of the additional duties imposed in the United States on Belgian sugars, as he stated for my information and convenience. A duplicate of the same he also informed me had been to-day transmitted to the Belgian minister at Washington.

I inclose a copy and a translation of this nonofficial statement and will advise the Department by cable of the official promulgation of the royal decree.

I have, etc.,

BELLAMY STORER.

[Inclosure—Translation.]

The additional duties to which Belgian sugars are subjected on entering the United States of America have been provisionally fixed at 4.50 francs for raw sugars and 5.36 francs for refined sugars.

As to German sugars the rate of such additional duties is 3.10 francs and 4.44 francs, respectively, making a difference in favor of Germany of 1.40 francs (on raw sugar) and of 0.92 franc (on refined sugar).

Sugars of Austrian origin pay additional duties of 3.42 francs and of 5.25 francs, respectively, on raw sugar and refined sugar, thereby receiving an advantage of 1.08 francs and of 0.11 franc over Belgian sugars. It is well known that in Austria sugar manufacturers have formed a syndicate whereby, from the high duties which foreign sugars pay on entering that country, manufacturers can raise the price of sugar for the interior of the Empire; and so, independently of the direct export bounty, the Austrian manufacturers have the advantage of an indirect bounty for which no equivalent exists in Belgium.

A similar syndicate is at present in formation in Germany.

Consequently to reestablish the freedom of competition in the American market, the additional duties on Belgian sugars should at the outside be 3 francs for raw sugar and 3.25 francs for refined sugar. In any case the difference of the additional duty on these two kinds of sugars should not be above 0.25 franc, as one can not lose sight of the fact that, contrary to the case in other countries, the entire Belgian bounty arising from the surplus production is fixed according to the richness of the raw sugar. Since there exists in Belgium no bounty to cover cost of refining, the difference between the duties on raw and refined sugar ought to be fixed in proportion (to cover this).

The figures 3 francs and 3.25 francs above given have reference to the present situation. They should naturally be reduced to 2.25 francs and 2.43 francs for brut and refined sugars, respectively, from and after the 15th of August, 1899, the date of beginning work in the

manufactories, when will come into force the law of 29th December, 1898, which raises the rate of the "prise en charge" from 1,900 to 2,000 grams per hectoliter of juice at one degree of density, as the application of this measure will have the effect of diminishing in the proportion of the difference of the above figures the indirect protection which sugar receives in Belgium.

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*Mr. Hay to Mr. Storer.*

No. 251.]

DEPARTMENT OF STATE,  
Washington, April 19, 1899.

SIR: Your dispatch No. 185, dated March 29, 1899, is received. You observe that the minister of foreign affairs had just informed you "that the royal decree raising the prohibition of the importation of American cattle will be officially promulgated during the first week in April." You add that you "will advise the Department by cable of the official promulgation of the royal decree." As the Department has not yet received such advice, it is presumed that the decree has not yet been published.

The last revision of the bounty applicable to the Belgian sugar crop gave the following as the reduced and lowest rates possible under the law, namely: On raw sugar, 4.05 francs; on refined sugar, 4.60 francs.

As longer delay in liquidation of duties on Belgian sugar proves inconvenient to the Treasury, it has been decided to announce at once the liquidation in accordance with the above reductions, which are somewhat more favorable than those which you indicated to the Belgian Government under former instructions. The Treasury circular for the adjustment of duties at 4.05 francs instead of 4.50 francs and at 4.60 francs instead of 5.36 francs is now issued, bearing date April 18, 1899.

Any reductions of present bounty paid in Belgium to be effected under the new law will, of course, be met by corresponding reductions in the countervailing duty here.

We can not doubt that the Government at Brussels will announce on its part the friendly act of reciprocity so long expected.

I am, etc.,

JOHN HAY.

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*Mr. Storer to Mr. Hay.*

No. 190.]

LEGATION OF THE UNITED STATES,  
Brussels, May 13, 1899.

SIR: I have the honor to acknowledge the receipt of your dispatch of April 19, numbered 251, which arriving in due course of mail did not seem to require answer until I had some further communication from the ministry to transmit on this subject.

I received yesterday a visit from the minister of foreign affairs, who expressed his regret for the delay which had occurred in carrying into effect the formal engagement on the part of the ministry that the royal decree raising the prohibition of American cattle importation would be promulgated during the time heretofore reported by me.

In expressing his apologies, he made the explanation that certain new embarrassments of detail had unexpectedly arisen between the Belgian minister of agriculture and the authorities of Holland, and this was the only cause which had delayed the carrying into effect of the intention of the ministry regarding American cattle, which intention remained unaltered. While unable to give assurance of the exact day that the signature of the King would be attached to this decree, which has already been drawn up, he assured me of his full confidence that this would be done, and the decree officially promulgated before the day on which I shall present my letters of recall from this port. He also expressed his regret that the rate of duties on Belgian sugar in the United States could not have been made on the basis of the suggestions of his Government, at the same time acknowledging the concessions made by the Treasury Department of the United States. I may add that in my opinion the Department may expect some advances from the Belgian minister at Washington looking to an interchange of some possible reciprocal advantages under section 4 of the tariff act.

I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

No. 254.]

DEPARTMENT OF STATE,  
Washington, May 29, 1899.

SIR: Your dispatch, No. 190, of date May 13, 1899, is received; also your telegram of the 28th instant, which reads as follows:

Official promulgation to-day of decree repealing interdiction of importation of American cattle. Repeal takes effect May 31.

To-day the Belgian minister also communicated to this Department the following telegram just received from his Government:

Moniteur 28 publie arrêté levant interdiction bétail américain nouveau régime édicté par arrêté royal 22 janvier 1897, applicable à partir 31 mai. Informez Gouvernement.

From this it appears that the decree of January 22, 1897, is restored. If you have not already forwarded a copy of the regulations now to be enforced upon importation of American cattle, you will transmit such copy to this Department as soon as may be, in order that exporters may be fully informed of the conditions affecting their shipments to Belgium.

I am, etc.,

JOHN HAY.

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*Mr. Storer to Mr. Hay.*

No. 199.]

LEGATION OF THE UNITED STATES,  
Brussels, May 30, 1899. (Received June 2.)

SIR: I have the honor to report that on the evening of the 28th I received a semiofficial letter from the minister of foreign affairs, of which I send a translation herewith.

I immediately cabled you as follows:

Official promulgation to-day of decree repealing interdiction of importation of American cattle. Repeal takes effect May 31.

To-day I have received an official communication from the minister of foreign affairs, of which I also forward a copy and a translation.

I also forward, as part of this dispatch, three copies of the decree spoken of in the communication of the minister of foreign affairs, and which reads in English as follows:

SANITARY INSPECTION OF DOMESTIC ANIMALS.

IMPORTATION OF CATTLE COMING FROM THE UNITED STATES.

In view of the law of December 30, 1882, on the sanitary inspection of domestic animals, as well as the general rules of administration framed to carry this law into effect; \* \* \*

And in view of the royal decree of 22d January, 1897, fixing the conditions under which animals shipped from all countries beyond the sea may be imported, and considering the ministerial decree of the 29th of December, 1894, which prohibits the importation of all cattle shipped from the United States of America \* \* \* And in consideration of the opinion of the veterinary inspection officers, it is decreed as follows:

From and after the 31st of May, 1899, the aforesaid decree of the 29th of December, 1894, interdicting the importation or the transit of cattle coming from the United States of America, is hereby repealed.

BRUSSELS, *May 25, 1899.*

I also forward as an inclosure to this dispatch three copies of the royal decree governing all importation of cattle; which bears date May 25, 1899.

Owing to the pressure of business, I have not been able to transmit a translation of this decree.

I have, etc.,

BELLAMY STORER.

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[Inclosure 1—Translation.]

*Minister of Foreign Affairs to Mr. Storer.*

MINISTRY OF FOREIGN AFFAIRS,  
*Brussels, May 28, 1899.*

MY DEAR MINISTER: I have the honor to inform you that the Moniteur of to-day will contain the information that the Government has raised the interdiction of the importation of cattle from the United States.

I am much delighted that this measure, in the realization of which you have so powerfully assisted, has been brought about before your departure from Brussels.

DE FAVEREAU.

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[Inclosure 2—Translation.]

*The Minister of Foreign Affairs to Mr. Storer.*

MINISTRY OF FOREIGN AFFAIRS,  
*Brussels, May 29, 1899.*

SIR: I hasten to inform your excellency that, by a decree bearing date 25th of May of this year, the minister of agriculture and public works has repealed his former decree of the 29th of December, 1894, which interdicted the importation and the transit of all cattle coming from the United States of America.



From and after the 31st of May all such animals will be submitted, on entering Belgium, to the requirements of the royal decree of the 22d day of January, 1897, which contains the provisions applicable to cattle coming from all countries lying beyond the seas.

I have the honor to place at the disposition of your excellency a copy of the *Moniteur Belge*, of 28th of May, which gives the text of this ministerial decree of the 25th of May, 1899.

I have instructed by telegraph the minister of the King at Washington to inform the American Government of this step.

I take this occasion to renew to your excellency the assurance, etc.,

DE FAVEREAU.

*Mr. Hay to Mr. Townsend.*

No. 7.]

DEPARTMENT OF STATE,  
*Washington, July 10, 1899.*

SIR: I inclose for your information a communication from the Secretary of Agriculture, inclosing copies of letters from Messrs. Patterson Ramsay & Co., of Baltimore, and Messrs. Ronaldson & Co., of Antwerp, from which it appears that the Belgian Government requires that cattle shall be transported to the slaughterhouse in vehicles and slaughtered within three days from landing, so that notwithstanding the decree removing the prohibition against American cattle, such animals are still practically prohibited.

In this connection, your attention is called to the Department's instructions to Mr. Storer, in which the precise points raised by this letter of the Secretary of Agriculture were presented for the action of the Belgian Government.

Referring to the previous correspondence in regard to the matter, and with regard particularly to the Department's instructions, No. 251, of April 19, and No. 254, of May 29, 1899, and to Mr. Storer's dispatches, No. 185, of March 29, and No. 190, of May 13, 1899, you are instructed to urge upon the Belgian Government such a modification of the rules governing the importation of American cattle as will allow them to be killed within ten days from landing, that period being necessary to allow the recovery of the animals from the effects of the ocean voyage.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Wilson to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,  
*Washington, June 28, 1899.*

SIR: I have the honor to inclose for your information copies of letters from Messrs. Patterson, Ramsay & Co., steamship agents and brokers, Baltimore, Md., and Messrs. Thomas Ronaldson & Co., Antwerp, Belgium, in regard to the exportation of American cattle to Belgium under the present regulations of the Belgian Government.

It appears that the requirements that the cattle shall be slaughtered within three days from landing, and that they shall be transported to the slaughterhouse in vehicles, are such that they can not be complied with by importers, and that notwithstanding the decree removing the prohibition against American cattle such animals are still practically prohibited.

As the Belgian Government has shown a disposition to admit American cattle, I would request that this matter be at once brought to the attention of the Government through our minister, and that urgent representations be made for more liberal regulations.

In England our cattle may be killed any time within ten days from landing, and this period is necessary to allow the recovery of the cattle from the effects of the ocean voyage. Three days is entirely too short a period for this, and does not give the shippers time to make favorable arrangements in regard to the sale of the animals. If the cattle can be safely landed on Belgian soil and held for three days, they can just as safely be held for ten days. Arrangements should also be made by which the cattle can be driven to the slaughterhouses, as the expense and trouble of taking beef cattle in vehicles is such that it would prevent any trade developing.

I have, etc.,

JAMES WILSON, *Secretary.*

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[Subinclosure 1.]

*Patterson, Ramsay & Co. to Department of Agriculture.*

BALTIMORE, *June 27, 1899.*

DEAR SIR: Referring to the negotiations that have been going on between the United States Government and the Belgian Government with regard to the importation of cattle into Belgium, we inclose copy of letter just received from our Antwerp agents, which fully explains the situation as it stands to-day.

The alleged concessions made by the Belgian Government amount practically to nothing, as no American exporter will, under such circumstances, dream of taking space for the port of Antwerp.

The letter of our friends, which we inclose, gives you the situation in full, and we beg that you will put this matter before the Secretary and have him take it up in the proper quarter, so that some steps may be taken to remove the restrictions that are placed on this important traffic.

If they can not get the same regulation that applies in England, something like such a concession, in our judgment, ought to be demanded, and, if the United States Government can obtain this, they will be conferring an obligation on the cattle exporters and the steamship lines engaged in this Belgian trade, as well as helping to foster an industry which is growing daily.

If you deem it wiser, one of our firm will come to Washington to see either you or the Secretary, as may be deemed best.

Trusting to hear from you, etc.,

PATTERSON, RAMSAY & Co.

[Subinclosure 2.]

*Thomas Ronaldson & Co. to Patterson, Ramsay & Co.*ANTWERP, *June 15, 1899.*

DEAR SIR: Further referring to what we have already written you on this important subject, we are doing our utmost to get our authorities here to increase the limit of time in which the cattle have to be slaughtered after arrival. Our importers inform us that if they were allowed ten days shipments could then be resumed. Unfortunately, our Government is formed of the conservative party, amongst whom the agriculturalists are very numerous and powerful, and they are not at all anxious to facilitate the importation of cattle. If they have withdrawn the prohibition, and stipulated that the cattle must be slaughtered within three days, we believe this must have been mainly owing to the pressure brought to bear on them by your authorities. We would point out that the importation of United States cattle is now under exactly the same regulations as those coming from South America; hence we fear it will be difficult for your Washington friends or our importers here to get the Government to grant extra facilities in favor of the importation of cattle from your country. However, we are of opinion that the pressure must come from your side, although, of course, we will do everything in our power to support your efforts. We would therefore suggest your once more taking the matter up energetically with your Government, pointing out that the concession that has been made here is a mere farce and laughing stock and is no concession whatever. We feel sure that your authorities, when their attention is called to same, can not fail to see that in the eyes of everyone on this side it is a downright insult to the United States, seeing that the restriction imposed by the Belgian Government that the cattle are to be slaughtered within three days of arrival, and are not to be allowed to be driven from the ship to the abattoirs, but have to be conveyed in carts, make all importations and business in cattle impossible. We shall be glad to hear that you have taken up matters in accordance with the foregoing, and trust you will soon be able to report satisfactory results.

Yours, faithfully,

THOS. RONALDSON &amp; CO.

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*Mr. Townsend to Mr. Hay.*

No. 11.]

LEGATION OF THE UNITED STATES,  
*Brussels, July 24, 1899. (Received Aug. 7.)*

SIR: I have the honor to acknowledge the receipt of dispatch No. 7, dated July 10, 1899, and to inform the Department that, in conformity with instructions contained therein, I have urged upon the Belgian Government to so alter the existing regulations in regard to the importation of American cattle that the animals may be slaughtered at any time within ten days from the date of their arrival on Belgian soil. I have also pointed out to the minister for foreign affairs that the present restrictions placed upon the importation of American cattle by the Belgian Government actually prevented such importation and formed a barrier to the development of trade between the two countries.

I have, etc.,

LAWRENCE TOWNSEND.

*Mr. Townsend to Mr. Hay.*

No. 26.]

LEGATION OF THE UNITED STATES,  
*Brussels, October 26, 1899.*

SIR: Referring to Department's instructions No. 7, of July 10, 1899, and to my reply thereto, numbered 11, of July 24, 1899, I have the honor to transmit herewith a copy and translation of a note just received from the minister of foreign affairs, in which he informs me that the minister of agriculture finds it impossible to make any alteration in the royal decree of 22d January, 1897, governing the importation of live stock into Belgium from countries beyond the sea.

The minister of agriculture is also of the opinion that the delay of three days allowed before slaughtering is sufficient to permit the cattle to recover from the effects of the sea voyage.

In this connection I may add that I have had several conversations on this important subject with various members of this Government, and they all unite in expressing the opinion that it will be impossible to alter the existing regulations for the present, and, furthermore, that these regulations apply indiscriminately to all live stock imported into Belgium from countries beyond the sea.

My own opinion is that the minister of agriculture is holding out for a further reduction of duties on sugar imported into the United States from Belgium, and that no further concession will be granted in the matter of cattle imported from the United States until they receive assurances of concessions in the matter of sugar.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure.—Translation.]

*Mr. de Favereau to Mr. Townsend.*

MINISTRY OF FOREIGN AFFAIRS,  
*Brussels, October 23, 1899.*

MR. MINISTER: I did not fail communicating to the minister of agriculture your excellency's letter kindly addressed me on 6th July last, on the subject of the régime at present in force in Belgium concerning the importation of live stock from the United States of America.

My colleague observes that the régime originated by the royal decree of 22d January, 1897, is uniformly applied to the bovine species of foreign origin imported through the Belgian ports, and that in reality the delay of three days allowed before slaughtering these animals has been admitted to be sufficient to permit them to recover from the fatigues of the sea voyage.

The minister of agriculture adds that if, in fact, since the ministerial decree of 25th May last, the importation of American cattle into Belgium is still relatively of small importance, it would be wrong to impute the cause of this to the period of time stipulated before the slaughtering of the animals imported.

I do not doubt, Mr. Minister, that, after anew examining the situation, the importers of American cattle will acknowledge the advantages really procured by the régime in force.

I avail myself, etc.,

DE FAVEREAU.

*Mr. Hay to Mr. Townsend.*

No. 27.]

DEPARTMENT OF STATE,  
*Washington, November 29, 1899.*

SIR: Referring to previous correspondence concerning the American cattle trade in Belgium, and with reference particularly to your dispatch No. 26 of the 26th ultimo, reporting that the Belgian Government is of the opinion that it will be impossible to alter the existing cattle regulations for the present, and that, furthermore, these regulations apply indiscriminately to all live stock imported into Belgium from countries beyond the sea, I have to inclose for your information copy of a letter from the Secretary of Agriculture, in which he states that while he is not in a position to state positively that your report is incorrect, he was informed by the president of the Anglo-American Chamber of Commerce at Antwerp, who is also director of the firm of Thomas Ronaldson & Co., Limited, that a regulation has been made allowing Canadian cattle to be imported into Belgium without restrictions.

You will observe that the Secretary of Agriculture requests that you be asked to make inquiries as to whether this concession has been made to Canadian cattle, and to renew your protest against the enforcement of the regulation requiring American cattle to be slaughtered within three days, and against the requirement that they be taken to the abattoir in carts or wagons and not allowed to be driven.

In your treatment of the subject you will be guided by the views expressed by the Secretary of Agriculture in his communication of the 18th instant.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Wilson to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,  
*Washington, November 18, 1899.*

SIR: I have the honor to acknowledge with thanks the receipt of your letter of the 15th instant, inclosing for my information copy of a dispatch from the United States minister at Brussels, No. 26, October 26, 1899, in regard to the present status of regulations covering the importation of American cattle into Belgium. I note the statement in Mr. Townsend's dispatch that the Belgian Government is of the opinion that it will be impossible for the existing regulations to be changed for the present, and that the assertion was made that the regulations apply indiscriminately to all live stock imported into Belgium from countries beyond the sea. While I am not in a position to state positively that this is incorrect, I was informed by the president of the Anglo-American Chamber of Commerce of Antwerp, who is also director of the firm of Thomas Ronaldson & Co., Limited, that a regulation has been made allowing Canadian cattle to be imported into Belgium without restrictions. I would request, therefore, that Mr. Townsend be asked to make inquiries as to whether this concession has been made to Canadian cattle, and to renew his protest against the enforcement of the regulation requiring American cattle to be slaughtered within three days, and to the other requirement that they be taken to the abattoir

in carts or wagons and not allowed to be driven. These two regulations are as prohibitive as the previous order, and consequently Belgium has made no real concession since American cattle were refused admission to that country.

I have, etc.,

JAMES WILSON, *Secretary*.

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*Mr. Townsend to Mr. Hay.*

No. 30.]

LEGATION OF THE UNITED STATES,  
*Brussels, December 11, 1899.*

SIR: I have to acknowledge the receipt to-day of No. 27, dated November 29, 1899, transmitting copy of a communication from the Secretary of Agriculture, in which he states that he was informed by the president of the Anglo-American Chamber of Commerce in Antwerp that discrimination had been made against cattle imported from the United States into Belgium, inasmuch as a regulation had been issued allowing Canadian cattle to enter Belgium without restrictions.

Pending a further thorough investigation of this question, I may add for the information of the Department that a few days after forwarding my last dispatch on this subject, No. 26 of October 26, 1899, a committee of the Anglo-American Chamber of Commerce in Brussels having this matter in charge called upon me. We discussed the whole question very thoroughly, and they informed me that they had just had an interview with the British minister to the same end. The following day I had a conference with the British minister on the subject, at which time he informed me that he had been instructed to protest against the enforcement of the regulation requiring Canadian cattle to be slaughtered within three days. During the past six weeks I have had several interviews with the British minister, and we have both urged our respective claims with the minister of foreign affairs. I also had several conferences with the committee of the Anglo-American Chamber of Commerce. Only three days ago I spent an afternoon at the Chamber of Commerce discussing this subject with the committee. At that time the Englishmen present were still urging their claim, and apparently knew nothing of the existence of a regulation permitting Canadian cattle to be imported without restrictions. I am therefore forced to conclude that the Secretary of Agriculture has been misinformed.

While investigating this subject technically, I have been informed by a veterinary expert who is interested in the American cattle trade in England that, except in very rare cases, the actual physical condition of American cattle when they are taken off the boats on arrival in England is better than when these same cattle are taken from the cars and loaded onto the boats in the United States ports, and that the ten days allowed in England before slaughtering is of no practical benefit from the standpoint of improvement in the physical condition of the animals, but the longer period is of great advantage to the importer, as it permits him to find a better market. If this be true, it was a mistake for me, in presenting our claim to this Government, to have put forward the argument contained in the letter of Messrs. Patterson, Ramsey & Co. to the Secretary of Agriculture, transmitted by the Department with No. 7 of 10th July last, in which the import-

ers claimed that the period of three days allowed was an insufficient time to permit the animals to recover from the effects of the sea voyage, as it has not strengthened our cause in any way. The question of time allowed before slaughtering seems to be one of finding a profitable market rather than of physical condition of the animals, three days not being sufficient to enable the importer to dispose of his stock profitably.

At one of the conferences which I had with the committee of the Anglo-American Chamber of Commerce I suggested that the difficulty of finding a ready market within three days might be overcome by the American cattle importers combining and building a cold-storage plant at Antwerp. They would thus be in a position to be independent of the local market, and might ship frozen beef all over Belgium. I am informed that this scheme is now under serious consideration here. The objection to the importation of frozen meat is that the law requires the lungs to be attached to the carcass. This makes the meat bulky and difficult to pack and ship at a profit.

In regard to the requirement that the live cattle must be taken to the abattoir in carts or wagons, I am informed that this is the law in the principal cities of Europe for domestic cattle and I doubt if it can be changed.

The whole question narrows itself down to one of protection to the agriculturists of Belgium, a party which is a political power in the country.

The importers claim that there is very little profit in this cattle business with the existing restrictions. Were their business to be made more profitable by removing these regulations, the agriculturists fear that the country would be flooded with cheap American meat, thus ruining their market.

I will keep the Department advised of any further developments of this question.

I have, etc.,

LAWRENCE TOWNSEND.

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*Mr. Townsend to Mr. Hay.*

No. 31.]

LEGATION OF THE UNITED STATES,  
*Brussels, December 12, 1899.*

SIR: Supplementary to my dispatch of yesterday, No. 30, I have the honor to inform the Department that I have been permitted by the British minister to examine portions of the correspondence, covering a period of several years, which his legation has had with this Government on the subject of the prohibition against the importation of Canadian cattle into Belgium, as well as the restrictions to importation after said prohibition had been removed.

After a careful perusal of this correspondence, it is evident to my mind that the Secretary of Agriculture has been misinformed, and that there has been no order issued by the Belgian Government removing or lessening any of the restrictions to the importation of Canadian cattle, which are now exactly the same as those in force in regard to the importation of American cattle.

The idea that a regulation had been issued lessening the restrictions in the case of Canadian cattle imported into Belgium, which seems to have been conveyed to the Secretary of Agriculture, may possibly have

had its origin in the fact that the decree removing the prohibition to the importation of Canadian cattle was issued by this Government on 16th October last and became effective on 15th November last.

The British minister informs me that this is the only order which has been issued by the Belgian Government in regard to the importation of Canadian cattle. The restrictions governing the importation of Canadian cattle in this decree, a copy of which is herewith inclosed, are the same as those contained in the decree of 25th May last, which removed the prohibition to the importation of American cattle.

The Department will observe after comparing the two decrees, which are herewith inclosed, that not only is the statement of the President of the Anglo-American Chamber of Commerce at Antwerp, to the effect that a discrimination had been made in favor of Canadian cattle, an erroneous one, but that in reality a discrimination was made, for a short period, on two occasions against Canadian cattle and in favor of America. The decree prohibiting the importation of Canadian cattle went into effect on the 7th of December, 1894, whereas American cattle were not prohibited until December 29th of the same year, and furthermore the decree removing the prohibition in the case of American cattle went into effect on May 31, 1899, whereas the decree permitting Canadian cattle to enter under same conditions as American only went into effect on November 15, 1899.

From the moment the decree removing the prohibition to importation of American cattle was issued, the British minister urged this Government to grant the same privilege to Canadian cattle, which from a purely sanitary standpoint he argued were equally worthy to enter Belgium. Since the publication of the decree permitting Canadian cattle to enter Belgium under the same restrictions imposed upon cattle from the United States, the British minister has urged upon this Government to extend the time allowed before slaughtering from three to ten days, and he has received a similar reply from the minister of foreign affairs to the one which I received and transmitted to the Department on 26th October last.

The communication above referred to, from the minister of foreign affairs to the British minister, which is of later date than the similar one to this legation, contains an additional reason why the Belgian Government is unable at present to extend the time of slaughtering to ten days, which is, that the stockyards and slaughterhouses at Antwerp would have to be greatly enlarged to accommodate the imported cattle for a period of ten days, and it is not considered advisable at present to expend the sum of money necessary to enlarge this property.

I will continue to urge upon this Government the necessity of extending the period of slaughtering to ten days, as the present restrictions are a serious obstacle to the growth and development of general trade between the United States and Belgium, and will keep the Department advised of any change in the existing state of affairs.

I have, etc.,

LAWRENCE TOWNSEND.

(Inclosures not translated.)



**PHILIPPINE ISLANDS, COASTING ALONG, BY NEUTRAL VESSELS.**

*Count de Lichterveld to Mr. Hay.*

BELGIAN LEGATION,  
*New York, July 7, 1899.*

MR. SECRETARY OF STATE: It is of the utmost importance to the firm of Ingenohl, of Antwerp, which has an establishment in Manila, to make its yearly purchases of tobacco, as it would otherwise be subjected to considerable loss. For that purpose, it would have to be authorized by the American military authorities in the Philippines, to charter one or more neutral vessels, which would be authorized to carry on the coasting trade on the coasts of the islands during the continuance of hostilities.

In pursuance of the instruction of the minister of foreign affairs, I have the honor to apply to your excellency to have the necessary instructions sent to General Otis to grant the permission desired.

I avail myself, etc.,

LICHTERVELD.

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*Mr. Hay to Count de Lichterveld.*

No. 199.]

DEPARTMENT OF STATE,  
*Washington, July 31, 1899.*

SIR: Referring to your note of the 7th instant, asking for permission for the firm of Ingenohl, of Antwerp, to make certain purchases of tobacco at Manila, and for this purpose to charter one or more neutral vessels with which to engage in the coasting trade during the continuance of hostilities, I now have the honor to inform you that it is not deemed advisable by the War Department to grant permission at this time to foreign vessels to engage in the coasting trade in the Philippine Islands.

Accept, etc.,

JOHN HAY.

## BOLIVIA.

### REVOLUTION.

*Mr. Bridgman to Mr. Hay.*

No. 73.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, December 15, 1898.*

SIR: I have the honor to state that on November 6 the Government officials of the city of La Paz, with apparently the almost unanimous concurrence of the inhabitants, issued a proclamation announcing "The regeneration of Bolivia under the rule of Federal Government," and appointed a list of officials to act under the new Government. This is an actual secession from the Government at Sucre and the rule of President Alonzo on the part of the La Paz district. The reason for this action is, as stated in the dispatch No. 72, of December 10, and in the cablegram sent the Department yesterday, a copy of which is herewith inclosed, the urgent desire on the part of all citizens of La Paz, official and private, that the seat of government remove from Sucre to this city. La Pazians have been given distinct reasons to think this removal would take place in December, if not earlier, and the decision of Congress to the contrary, on the date of November 15, has brought about the present crisis. Armed resistance is decided upon and active preparations to that end are being made as rapidly as possible. Up to date they have secured 400 rifles and 2,500 rounds of ammunition only. They expect to have 5,000 men at their command, 300 of these being native Indians. President Alonzo left Sucre December 6 with 2,000 men armed with Mauser rifles. On December 16 he reached Oruro, three days' march from this place. A telegram sent by him to the insurgents urging cessation of hostile action was disregarded, and active resistance by the people here is planned as soon as President Alonzo reaches La Paz with his troops. It is not yet fully decided whether to meet the troops on the "Alto" or within city limits. Several proclamations and announcements have been issued by the leaders of the revolution. \* \* \* Note to the legation, a \* \* \* translation is herewith inclosed. \* \* \* Circular to the legation, of which a \* \* \* translation is also herewith inclosed. \* \* \*

\* \* \* We (the United States, Brazilian, and French ministers) have also met and agreed upon inflexible rules to govern us in the reception of refugees who may later apply to the different legations for "asylum." This is quite certain to take place and we shall try to be governed exactly by the rules established under international law and laid down in our books of instructions.

I have, etc.,

GEORGE H. BRIDGMAN.

[Inclosure 1.]

ASSEMBLY OF THE FEDERAL GOVERNMENT,  
*La Paz, December 13, 1898.*

MOST EXCELLENT SIR: Yesterday the people of La Paz, united with the troops residing in this city, proclaimed the Federal Government of the Republic, and established an assembly composed of the undersigned and Col. Jose Manuel Pando.

In placing within the knowledge of your excellency this event we have the pleasure to salute the Republic of the United States of North America, expressing to your excellency our sentiments of cordial esteem, with which we subscribe ourselves attentive servants of your excellency.

SERAPIO REYES ORTIZ.  
 MACARIO PINILLA.

THE MINISTER PLENIPOTENTIARY OF THE  
 UNITED STATES OF NORTH AMERICA,  
*Present.*

[Inclosure 2.]

GENERAL SECRETARY OF THE GOVERNMENT ASSEMBLY,  
*La Paz, December 14, 1898.*

MOST EXCELLENT SIR: The undersigned has the honor to announce to your excellency that the most excellent Government assembly, appointed by the direct and unanimous vote of the people, of which your excellency is already informed, has decided to appoint him general secretary of state, in which connection it is pleasing to communicate to your excellency that the Government, again established, desires most sincerely to strengthen by all means in their power the ties which unite Bolivia with the Republic of the United States of North America, of which your excellency is its most worthy representative.

This first opportunity is taken by the undersigned to offer to your excellency the assurances of his high and distinguished consideration.

FERNANDO E. GUACHALLA.

The Most Excellent Mr. GEORGE H. BRIDGMAN,  
*Envoy Extraordinary and Minister Plenipotentiary of  
 the United States of America to Bolivia, Present.*

*Mr. Hay to Mr. Bridgman.*

No. 63.]

DEPARTMENT OF STATE,  
*Washington, January 24, 1899.*

SIR: I have to acknowledge the receipt of your No. 73, of the 15th ultimo, reporting the outbreak of a revolution at La Paz, and stating that it is probable you will be asked to shelter refugees.

As to the question of shelter, as distinguished from so-called asylum, you may consult the Department's instruction to the minister of the United States to Ecuador, printed in Foreign Relations, 1895, page 245.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Bridgman.*

No. 78.]

DEPARTMENT OF STATE,  
*Washington, March 14, 1899.*

SIR: I have to acknowledge the receipt of your Nos. 90,<sup>1</sup> of January 26; 91,<sup>1</sup> of February 1; 92,<sup>1</sup> of February 3, and 93, of February 10 last, reporting the serious condition of affairs at La Paz and in the surrounding country.

You will understand that you can have no diplomatic relations with the insurgents implying their recognition by the United States as the legitimate Government of Bolivia, but that, short of such recognition, you are entitled to deal with them as the responsible parties in local possession, to the extent of demanding for yourself, and for all Americans within reach of insurgent authority within the territory controlled by them, fullest protection for life and property.

If the situation at La Paz becomes unendurable or more perilous, you should collect all Americans within reach and quit that city, taking them with you, demanding adequate escort to the nearest place of safety.

I am, etc.,

JOHN HAY.

*Mr. Bridgman to Mr. Hay.*

No. 111.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, March 28, 1899.*

SIR. I have the honor to report the occurrence of another hideous outrage and murder at the hands of the savages in Bolivia.

On March 1 Colonel Pando sent, from his army at Sicasica, 120 men commanded by Arturo Eguino, to Ayopaya, there to confer with Mr. Orellana as to the best means for simultaneously attacking Cochabamba.

On arriving at the town of Mohoza, Equino demanded a loan of 200 bolivians from the priest of the town and 100 bolivians from the mayor.

These demands being refused, the priest and mayor were imprisoned. Meanwhile, however, the priest had dispatched couriers to the Indian villages asking that the natives attack Pando's men.

A large crowd of Indians came, and in spite of all measures taken to pacify them, the arms of the soldiers were taken away, the men subjected to revolting treatment, and finally locked inside the church for the night. In the morning the infernal priest, after celebrating the so-called "Mass of agony," allowed the Indians to take out the unfortunate victims, two by two, and 103 were deliberately murdered, each pair by different tortures.

Seventeen escaped death by having departed the day previous on another mission.

Each day brings news of risings of the Indians in different sections of the northern part of the country.

A large party of whites arrived in La Paz to-day, fleeing from Indian threats. Unless the savages are speedily subdued the question of outrages and attacks by them will be, as my dispatch of three months ago stated, a most serious problem for Bolivia to combat.

I have, etc.,

GEORGE H. BRIDGMAN.

<sup>1</sup> Not printed.

*Mr. Bridgman to Mr. Hay.*

No. 114.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, April 20, 1899.*

SIR: I have the honor to state that since the battle reported in dispatch No. 113,<sup>1</sup> of April 13, matters have progressed quietly and the people generally accept the idea that the revolution has ended and that peace is declared.

Alonzo, on the day of the engagement, fled to Antofagasta, and is still out of Bolivia, with a number of his officers.

The number killed of Pando's army is 117, wounded 127.

Of Alonzo's men they estimate 400 killed and wounded; 1,000 of Alonzo's army were taken prisoners; 20 pieces of artillery, 4 Gatling guns, 1,700 rifles captured, with 38,000 bolivianos from the treasure wagon.

The local government of La Paz soon go to Oruro, there to arrange preliminaries for reorganization. Several months must elapse before regular Congress convenes and affairs are fully adjusted.

I have to-day sent cablegram as follows:

Revolution ended. Everything quiet.

\* \* \* \* \*

I have, etc.,

GEORGE H. BRIDGMAN.

*Mr. Bridgman to Mr. Hay.*

KEEN, N. H., *June 21, 1899.*

SIR: I have the honor to transmit herewith to the Department the following inclosures:

Spanish copy of the original announcement by the general secretary of the Government Assembly in Oruro, Bolivia, of the establishment of a new national government in Bolivia, with request that official announcement of the same be made to the Government of the United States and that good wishes be conveyed.

Also an English translation of the same.

I have instructed my secretary, Mr. Zalles, to inform the Bolivian Government of the reception of the documents by the Department of State and to suitably acknowledge the courteous words. He has already announced the mailing of the dispatch. The dates show the papers were delayed in transit.

I have, etc.,

GEORGE H. BRIDGMAN.

[Inclosure—Translation.]

*Mr. Guachalla to Mr. Bridgman.*

GENERAL SECRETARY OF THE GOVERNMENT ASSEMBLY,  
*Oruro, April 28, 1899.*

MOST EXCELLENT SIR: The superior judgment of your excellency has enabled you fully to appreciate the magnitude and importance of the political evolution which the Bolivian people have realized, and the immediate consequence of which has been the organization of a

<sup>1</sup> Not printed.

new National Government composed of Mr. Serapio Reyes Ortey, Jose Manuel Pando, and Macario Pinilla.

Your excellency must be convinced that the unanimous desire of the country and of their actual representative is to strengthen the ties of peace and friendship that unite Bolivia with the Republic which your excellency so worthily represents.

Under this impression I take the liberty of begging your excellency to have the kindness to announce to your distinguished Government the establishment of the executive power of Bolivia, together with the good wishes I am instructed to transmit to your excellency for the welfare of the Republic of the United States of America. I shall be highly pleased to cultivate with your excellency, in my character as general secretary of the most excellent Government Assembly, the cordial relations which I have the honor to initiate, presenting to your excellency the assurances of my high and distinguished consideration.

FERNANDO E. GUACHALLA.

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*Mr. Adee to Mr. Bridgman.*

DEPARTMENT OF STATE,  
*Washington, August 22, 1899.*

SIR: Having laid before the President the letter addressed to him by the provisional junta of Government of Bolivia under date of April 28 last, announcing its assumption of administrative functions, and having also submitted to him your dispatch No. 127, of the 8th instant, in which you recount the circumstances under which the provisional government was formed, and express your judgment that it merits recognition as an unopposed and orderly *de facto* government, I had the pleasure to send you to-day a telegram conveying the President's directions as to your entering into relations with the junta upon your return to your post, as follows:

Upon your return to your post, if you then ascertain that the provisional government of Bolivia is being *de facto* administered by the junta according to regular methods, affording reasonable guarantees of stability and international responsibility, and without organized resistance, you will notify the junta that you are authorized by the President to enter into relations with the provisional government, and will notify the Department of your action in order that the President may make appropriate reply to the autograph letter addressed to him by the junta on the 26th of April last. Please acknowledge receipt of this telegram. Letter mailed you to-day.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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#### PROTECTION OF BRITISH INTERESTS.

*Mr. Bridgman to Mr. Hay.*

No. 115.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, April 20, 1899.*

SIR: I have the honor to report that I received on April 17 the following cablegram from the Department:

On request British Government you will protect British subjects and interests if necessary. Notify Bolivian authorities.

HAY.

I will notify the Bolivian Government of the same as soon as possible.

At present there is no need of protection, as everything is quiet. I have in several instances protected British interests in the absence of any English representative.

I have, etc.,

GEORGE H. BRIDGMAN.

*Mr. Bridgman to Mr. Hay.*

No. 154.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, November 30, 1899.*

SIR: I have the honor to report to the Department the attitude of the Bolivian Government toward this legation relative to the protection of British subjects and interests in Bolivia. As instructed by the Department, I reported to the Bolivian Government the several requests to assume such protection, quoting the language in the dispatch received, and asking consent to act as requested until permanent British consular officer should be appointed.

The request to the new Government was sent shortly after my return. \* \* \*

Last week's mail brought this reply, of which I inclose herewith copy and translation.

There could have been no mistake in that the Bolivian Government regarded it as a regular appointment to ministership and consulship, for after quoting the sentence in dispatch and cablegram from Washington, I was careful to explain that, with my secretary, Mr. Zalles (also United States consul), we were asked to temporarily assume the duties of chargé d'affaires, I as diplomatic interests might require and Mr. Zalles as consular interests might require, over the subjects and interests of Great Britain until English consular officers were appointed. As shown in inclosed reply, they seem to make no distinction between temporary arrangement and regular appointment.

The inclosed reply is what I feared would be sent, as anything in the line of omission of exact form and ceremony is hardly tolerated by these people. Their idea evidently is that the State has no right to interfere with the civil judiciary authority, at the request of this legation, until some official document accrediting me, to the temporary position even, has been received by them. They do not state the kind of document they name as "usual," and I do not know what they want, unless it may be a request similar to the one received, signed in the foreign office of the British Government.

\* \* \* \* \*

I am more than willing to give all possible aid and care to British interests, but under existing conditions it can not be very much.

A virtual copy of the above has been forwarded to the office of the under secretary for foreign affairs, London.

Awaiting your advice and directions,

I have, etc.,

GEORGE H. BRIDGMAN.

[Inclosure.]

*Mr. Guachalla to Mr. Bridgman.*

No. 9.]

MINISTRY OF FOREIGN RELATIONS,  
*Oruro, November 22, 1899.*

SIR: It is pleasing for me to answer the esteemed note of your excellency dated the 4th instant, No. 11, in which you have the kindness to inform me that Messrs. George H. Bridgman and Gerardo Zalles had been urged by the British Government, according to dispatch transmitted to the State Department in Washington, to assume the representation of British interests in Bolivia, the first as chargé d'affaires and the second as consul.

It will be very satisfactory to me to receive the usual documents which will accredit your excellency and Mr. Zalles in this new character, and that will procure me the pleasure to cultivate with your excellency double diplomatic relations.

Meanwhile I offer, etc.,

FERNANDO E. GUACHALLA.

*Mr. Hay to Mr. Bridgman.*

No. 105.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1900.*

SIR: I have to acknowledge the receipt of your No. 154, of the 30th of November last, in which you state that you explained to the Bolivian Government that you were asked to temporarily assume the duties of chargé d'affaires, as diplomatic interests might require, over the subjects and interests of Great Britain, until the appointment of a representative by that Government, and that it was desired that Mr. Zalles might act temporarily as a consular officer of Great Britain, where consular interests were concerned, until the appointment of a consular officer by that Government.

You add that the Bolivian foreign office replied that the Government would recognize you when furnished with the usual documents.

In reply I have to say that it is somewhat unfortunate that in your request to the Bolivian Government you announced your temporary assumption of the duties of British chargé, and also Mr. Zalles's temporary assumption of British consular representation. So presented, the Bolivian Government may not unnaturally have attached a formality to your official position which would not have been the case had you followed the general rule of stating that you had been asked to continue your good offices in behalf of British subjects and interests pending the designation of British officers. The object was, not to invite your recognition in the character of British chargé d'affaires ad interim, but to ask that in the absence of any British representative you, as the United States minister, might be permitted to speak, unofficially and by way of good offices, in favor of any British interests which might appear to deserve that kind of mediation on your part. The latter is the usual way of proceeding when unrepresented foreign interests are provisionally intrusted to a representative of the United States in a foreign country. The officer whose good offices are thus permitted is



in no sense an officer of the unrepresented Government—he does not report to it, nor take its orders. His communication with it is indirectly effected through his own Government. Upon your making this clear to the Bolivian Government it is thought there can be no difficulty in the way of your exerting your good offices in the manner asked by the British Government and contemplated by the instruction sent to you.

I am, etc.,

JOHN HAY.

#### IMPRISONMENT OF CAPT. JOHN S. BOWLES.

*Mr. Hay to Mr. Bridgman.*

No. 76.]

DEPARTMENT OF STATE,  
*Washington, March 4, 1899.*

SIR: Referring to your unnumbered dispatch written at Keene, N. H., August 16, last, I have to say that you press again, and urgently, for the prompt trial or discharge of Capt. John S. Bowles, who was arrested October 4, 1894.

You will report the result of your action to the Department.

I am, etc.,

JOHN HAY.

*Mr. Bridgman to Mr. Hay.*

No. 117.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, April 28, 1899.*

SIR: Referring to dispatch from the Department, No. 76, dated March 4, I have the honor to state that I have been unremitting in my efforts to secure the trial of Capt. John S. Bowles, as was General Moonlight before me. In demanding his immediate trial I have employed most urgent terms; have quoted verbatim the request from the State Department, and urged everything save threats, which the Bolivian Government fully understand can not be easily fulfilled on account of their isolated position. Had this nation enjoyed 20 miles of seacoast, Captain Bowles would have been tried four years ago.

The man is accused of perpetrating the crime of castration on several half-breed boys. From all I can learn his innocence is doubtful; certainly no reason, however, for refusing trial.

The invariable reply from Sucre to my demands is that the trial "shall be brought about as speedily as possible." When I have urged the foreign minister to personally expedite matters he has replied that the delay is due to the absence of an important witness, and that as "State official he can not interfere with civil authority."

What reason they have for this strange action I can not see, unless in line with the fact that all foreign ministers residing outside of Sucre have great difficulty in gaining any concessions from the Government.

During the revolution it was impossible to accomplish anything, as several chairs in the cabinet were vacant most of the time. As soon as the trouble ended I spoke to an official here, Dr. Victor E. Sanjines,

who will in all probability be in power under the new government, and he will use all his efforts to bring the matter to an issue. I shall also make the same personal appeal to Colonel Pando, who has just come into power.

Before the inauguration of the new party, several months from now, it will be perfectly useless to make any effort for immediate action. When in Washington last July I personally consulted the State Department regarding the Bowles case, and asked for specific directions. With the government located in La Paz, or even Oruro, I can promise to accomplish something. I have not heard from Bowles since January and have not written since then, as there was nothing new to tell him. Everything shall be at once reported which bears on the case, and I am confident this last move of mine will accomplish more than all I have been able to do during the past ten months.

I inclose herewith a copy of a letter I am on the point of sending to Dr. Victor E. Sanjines, one of the influential men in the new party.

I have, etc.,

GEORGE H. BRIDGMAN.

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[Inclosure.]

*Mr. Bridgman to Mr. Sanjines.*

No. 44.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, April 23, 1899.*

DEAR SIR: An American named Capt. John S. Bowles was arrested in Santa Cruz, Bolivia, on October 4, 1894, for alleged crime and has been ever since that date deprived of liberty and refused trial, although he has made frequent demands to have his case acted upon, and the State Department at Washington has made the same demand in urgent terms many times. The last request from Washington came three days since and I am directed to report the result of my application as soon as possible.

Whether the man be guilty or not, all the demand made is that he be tried before a court of justice, and to delay this fair request for four and one-half years is of course an outrage and is so regarded by my Government. I therefore earnestly beg you, as one liable to have influence with the coming Bolivian government, to use your utmost efforts to simply have the man brought to trial and adjudged guilty or not guilty.

I also trust you will interest Señor Reyes Ortiz in the matter and ask him to use his utmost influence for this act of justice. This is certainly not an unreasonable demand on my part for your services. I shall apprise my Government that I have invoked your aid in this and hope to be able to give you the credit, in a future report, of having brought this most unfairly delayed case to some decision.

I have instructed Mr. Gerardo Zalles to give you all the aid and data he has and to help you in every way after my departure for the States.

With renewed assurances, etc.,

GEORGE H. BRIDGMAN.

*Mr. Zalles to Mr. Hay.*

No. 127.]

LEGATION OF THE UNITED STATES,  
*La Paz, Bolivia, July 6, 1899.*

SIR: In the case of Capt. John S. Bowles, I have the honor to report that since the 25th of April he was released by order of Dr. Rafael Pinto, the leader of the revolution in Santa Cruz.

\* \* \* \* \*

I have, etc.,

GERARDO ZALLES.

**RELIGIOUS LIBERTY IN SOUTH AMERICAN REPUBLICS.***Mr. Hay to Mr. Bridgman.*

No. 96.]

DEPARTMENT OF STATE,  
*Washington, September 1, 1899.*

SIR: I inclose for your perusal copy of a letter addressed to the President by the Rev. John Lee, chairman of a committee appointed by the Chicago Methodist Ministers' Meeting to make efforts to bring about larger religious liberty in the Republics of Bolivia, Ecuador, and Peru.

This Government, practicing as it does at home the largest principles of freedom of thought and belief, is naturally desirous to see its citizens enjoy in other countries a reasonable freedom from restrictions or disabilities imposed by reason of religious faith. While recognizing that the determination of the internal policy of a nation is an attribute of its sovereignty, the United States have not hesitated to express this desire, in considerate and friendly ways, as in the instance of the marriage laws of Peru, to the end that the law-abiding citizens of the United States sojourning in lands to which our country is bound by ties of amity and similarity of representative institutions may be relieved from discriminations affecting their individual life, liberties, and domestic relations in a manner at variance with the tendencies of this liberal age.

Instructions to be found upon your files show the deep interest this Government has long taken in procuring for its citizens in Bolivia a rational measure of freedom of worship and teaching, and due recognition of their domestic relations so far as may be consistent with the lawful practice of modern nations whose devotion to the cause of human advancement and the inculcation of high morality can not be questioned.

You are requested to examine and report upon the present condition of the legislation of Bolivia in regard to the liberty of conscience and teaching enjoyed by foreigners and as respects the status of aliens contracting marriage according to other rites and codes than those of the established church.

If in the course of your examination you shall deem the ascertained facts to warrant you in so doing, you are authorized to make such discreet representations in the proper quarters, by way of friendly but earnest suggestion, as may conduce to the desired end. You will, how-

ever, be cautious in such case to avoid wounding the sensibilities of a generous people or appearing to advocate any unduly exceptional treatment of the natives of the country.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Lee to the President.*

CHICAGO, ILL., August 24, 1900.

HONORED SIR: The committee appointed by the Chicago Methodist Ministers' Meeting to direct a movement to secure for Protestants in the Republics of Peru, Ecuador, and Bolivia that same liberty of conscience which is enjoyed by Roman Catholics in the United States of America desires to invite your attention to the following resolutions, offered by the Rev. Dr. P. H. Swift, which were unanimously adopted:

Whereas we have heard with greatest pleasure the report of Rev. John Lee, chairman of our committee on civil and religious liberty, giving a detailed account of the correspondence between the committee and the President and State Department of the United States: Therefore

*Resolved*, That we hereby express our grateful appreciation of the prompt and satisfactory action of the President and Department of State, and trust and pray that the expressed wish of our Government may meet with prompt response, not only by the Government of Peru, but also by all of the Republics of South America.

*Resolved*, That we commend our committee on civil and religious liberty for its vigorous and efficient service. We heartily indorse its action and urge it to continue its good work in the interest of the sacred rights of humanity.

The communication from the Department of State said:

The Department advised our legation at Lima of its hopes that Peru would adopt a marriage law more consonant with the general practice of modern nations, and expressed its concern lest the civil rights of American citizens in that quarter might be impaired through the deficiency of existing law. It was further stated that this Government would be glad to learn that the subject would be revived at the next session of the Congress and satisfactorily disposed of.

Copy of your letter will be forwarded to our legation in connection with the instructions referred to.

While the committee rejoices that Peru has already adopted "a marriage law more consonant with the general practice of modern nations," it would be more than pleased if the kindly offices of the United States Government would be exercised in securing in Bolivia, and especially in Ecuador, what has already been secured in Peru. The communications received by the committee from South America are in perfect harmony with a letter written to the Chicago Record from Guayaquil, Ecuador, July 12, by William E. Curtis, formerly United States commissioner to the South American Republics, and published in the issue of that paper for August 8, 1899. Mr. Curtis, after observing that "it is expected at the next meeting of Congress a law will be passed granting freedom of worship in Ecuador to all religious denominations," says:

The marriage law, however, has not been amended. No Protestant clergyman is allowed to perform the ceremony, and, under the existing statutes, no marriage is lawful unless sanctioned by a Catholic priest. Children born after Protestant marriages are considered illegitimate and can not inherit property; but it is expected that this will be changed at the next session of Congress, and the civil right of marriage established.

Kindly permit me to restate what appeared in my first communication. The committee aims at the accomplishment of three things: (1) To secure religious liberty for missionaries working in the Republics of Peru, Ecuador, and Bolivia. (2) To secure religious liberty for native Christians who dissent from the Roman Catholic faith. (3) To secure in these South American Republics the fullest civil liberty for American citizens and native-born Protestants, especially by the legalization of marriages performed by others than clergy of the Roman Catholic Church.

That the rich blessing of the Almighty God may ever rest on our country and its Chief Executive is my fervent prayer.

Believe me, etc.,

JOHN LEE,  
*Chairman of the Committee.*

## BRAZIL.

### VISIT OF THE U. S. S. "WILMINGTON" TO THE UPPER AMAZON.

*Mr. Bryan to Mr. Hay.*

No. 146.]      LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, April 18, 1899.*

SIR: Referring to the visit of the U. S. S. *Wilmington* to the Upper Amazon, I have the honor to report that on the 6th of April I received the following unsigned and undated telegram from Manaos:

*Wilmington* cruising up Amazon. No objection by Governor Para, Amazonas. Obtain permit if necessary. Inform governor.

Concluding that the message was from the commanding officer of the *Wilmington*, and noticing in such newspaper dispatches as the inclosed from the Paiz that the cruise up the Amazon River was by some considered unauthorized, I immediately mentioned the matter to the minister for foreign affairs, calling his attention to the decree of December 7, 1866, which opened the navigation of the high waters of the Amazon and its tributaries to foreign vessels. Dr. Magalhaes said that in answer to a telegram from the governor of Para, he had, although unnecessary, telegraphed authorization for the *Wilmington* to enter the Amazon, which message had not reached its destination before the departure of the American gunboat. The minister expressed gratification at the friendly visit of the *Wilmington*.

On the evening of April 15 Dr. Rodrigues, the editor of the *Jornal de Commercio*, sought me to show a telegram from his Manaos correspondent mentioning the alleged stoning of the American consulate, which dispatch was published the following morning. \* \* \* Dr. Rodrigues also read me a private note written by him to President Campos Salles, conveying, with words of regret, the disagreeable intelligence. I made no comment beyond expressing doubt as to the reliability of the information. Dr. Rodrigues, however, vouched for the conservatism and veracity of his correspondent.

As I had no information in advance, either from Washington or from the commanding officer of the *Wilmington*, of the vessel's coming, I could not prepare the way for her reception. As soon as I received your telegram of the 14th of March in answer to mine of the previous day, I sent a message commending Commander Todd to the good offices of my friend, the learned bishop of Amazonas. As the message was returned with the statement that communication by wire between Manaos and Para would be (as it has been) interrupted for several weeks, I could not send, as I had intended, notification to the two senators from Amazonas, with whom I had enjoyed pleasant relations during the last session of the Brazilian Congress. \* \* \*

I have, etc.,

CHARLES PAGE BRYAN.

*Mr. Bryan to Mr. Hay.*

No. 149.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, April 25, 1899.*

SIR: Referring to the subject of my dispatch No. 146, of the 18th instant, relating to the *Wilmington's* cruise without license up the Amazon, I have the honor to report that during my last visit to the minister for foreign affairs for the purpose of urging upon him some reciprocity arrangements, he volunteered to mention the Manaos incident, a subject I had hoped to avoid discussing until some definite information could be received from Washington or from the consular agent, Mr. Redman. Dr. Magalhaes read me all the telegraphic dispatches received by him from Para and Manaos, referred to in his note of the 22d instant, a copy of which I inclose with translation. I merely called his attention to the fact that in our former interview on the subject he had agreed with me in deeming a permit to navigate the Amazon superfluous, in view of the decree of December 7, 1866. To this remark he gave an evasive answer. He, however, appeared to assent to the only other comment of mine, which was to the effect that it was improbable than Commander Todd had told the Manaos authorities that he intended to return to Para when he had announced at that city his intention to go to Iquitos, and had applied through the governor for a permit to navigate the upper waters of the Amazon. The minister did not seem to wish to conceal anything from me, showing me the long telegrams as he read them. He protested (as always) the greatest friendliness and an earnest desire to preserve cordial relations between our countries.

I learn from Americans who have lived in Manaos that Mr. Redman, our consular agent there, has had large business transactions in which his interests and those of the leading Brazilian officials have conflicted, resulting in much acrimony on the part of an exgovernor and of a prominent Congressman. To this feud some attribute the alleged attack on the consulate after the departure of the *Wilmington*.

The members of the legation have preserved entire silence on the subject. The Brazilian people are extremely sensitive to national slights and errors in matters of courtesy. Happily the incident has so far not been the subject of much public adverse discussion. \* \* \*

The Department will find on consulting the note of Mr. Hilliard of April 6, 1878, and the answer of the Brazilian foreign office thereto, referred to in inclosure No. 1, that in that case permission was asked to send a vessel of the Navy to make a survey, equipped for that purpose. In this connection I have the honor to send for the information of the Department a copy of Mr. Dawson's memorandum of February 24, 1898, and a copy and translation of the reply of the minister for foreign affairs, referring to the visit of the *Wilmington* which was contemplated last year. It will be observed that both note and reply refer to "ports" generally and that no distinction is made in them between coast and river ports. The Department's instruction No. 98, of January 14, 1898, to Mr. Conger and Mr. Dawson's reply thereto, No. 113, of February 25, 1898, refer to the same subject.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure 1.]

*Dr. Magalhaes to Mr. Bryan.*

MINISTRY OF FOREIGN AFFAIRS,  
*Rio de Janeiro, April 22, 1899.*

Referring to the next the last conference I had with Mr. Charles Page Bryan, envoy extraordinary and minister plenipotentiary of the United States of America, in which he communicated to me the fact that the American gunboat *Wilmington* intended to go up the Amazon River on a visit to our ports of that region, I informed the minister that the governor of the State of Para having, on the 16th of March, at the request of the commander of the said ship, solicited the necessary authorization to undertake the voyage, I had conceded it, acting in conformity with the sentiments of frank friendship the Federal Government has for the United States of America.

On the 19th instant I was informed by the said governor that the commander of the gunboat *Wilmington* had left the port of Belem (Para) before receiving his answer in the affirmative. In spite of the fact that the governor was authorized to transmit to the governor of Amazonas the resolution of the Federal Government, he failed to send it in view of the irregular proceeding of the commander of the ship-of-war.

The ship was received in the port of Manaos with the formalities due, and the officers entertained by the local government. The commander, when making his farewell visit, said to the governor in the palace that he intended to continue his voyage with Belem as his destination, and from there to the island of Madeira. Meanwhile the ship left the port at 10 o'clock at night on the same day, and two days afterwards, when the packet *Rio Grande* came there, her commander communicated to the captain of the port that he had met the *Wilmington* going up the Amazon River in the direction of the Peruvian frontier.

I can not refrain from expressing to the minister the astonishment that these facts have caused to the Federal Government.

The Government of Brazil, being consulted upon an identical matter by the Government of Her Britannic Majesty, declared in a note of the 26th of June, 1882, that "the war ships of friendly powers might enter without any restriction all the maritime ports of the empire, and that as to the river ports, their entry depends upon a special concession for each case, there being no convention to the contrary."

I further ask the attention of the minister to the note which Mr. Hilliard, the diplomatic representative of his country, sent to this ministry on the 6th of April, 1878, relative to the *Enterprise*, a war ship of his nation, as well as to the answer which was given to him on the 13th of May of the same year.

I improve the occasion to have the honor, etc.,

OLYNTHO DE MAGALHAES.

[Inclosure 2.]

*Paragraph 1 of memorandum handed by Mr. Dawson to the minister for foreign affairs, February 24, 1898.*

1. Mr. Dawson informs the minister for foreign affairs that the light-draft gunboat belonging to the Navy of the United States of



America, which is now cruising among the ports of the Caribbean Sea will shortly enter Brazilian waters, and intends to visit in turn nearly all the ports of Brazil, beginning in the north, wherever it may not interfere with the quarantine or other regulations. The United States Navy Department has selected a vessel of suitable draft so that certain ports which have rarely been visited by foreign war vessels, and never by an American, may be reached. I bespeak for the *Wilmington* the same cordial reception and courtesy which your excellency's Government has always accorded to the ships of my Government, and trust that her visit will still further strengthen the feelings of friendship and good will existing so happily between the two peoples. This legation will take pleasure in informing your excellency of the date of the arrival of the *Wilmington* at Para as soon as definitely advised.

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[Inclosure 3.]

MINISTRY OF FOREIGN AFFAIRS,  
*Rio de Janeiro, April 2, 1898.*

Answering the memorandum which Mr. Thomas C. Dawson, chargé d'affaires of the United States of America, sent me on the 23d of February last, I have the honor to inform him, as to the subject of No. 1, that since entrance to all the ports of the Republic is free to the ships of whatever nationality, whether war ships or merchant ships, provided they subject themselves to the usual regulations of the said ports, the war ship *Wilmington* will meet a cordial reception in them.

I improve the occasion to reiterate, etc.,

DIONISIO DE CASTRO CERQUEIRA.

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*Mr. Assis to Mr. Hay.*

BRAZILIAN LEGATION,  
*Washington, D. C., May 24, 1899.*

SIR: In consequence of what was agreed upon in the conference I have lately held with the Assistant Secretary of State, in the absence of your excellency, I have the honor of submitting to your excellency's consideration the following facts:

On the occasion of the recent visit of the U. S. gunboat, the *Wilmington*, to the port of Belem, capital of the State of Para, the commander of this vessel visited the governor of the State and expressed to him his intention of sailing up the Amazonas to Iquitos. The governor assured him that the United States flag would be, as always, seen with great pleasure in the Brazilian waters, but observed that as the river ports were not free to foreign war ships, as are the maritime ports, it would be necessary to obtain permission from the Federal Government before undertaking the voyage. In order to save time and to be agreeable to the commander, the governor himself offered to solicit by telegraph the said permission, which has been assented to by the commander.

The Federal Government answered immediately, granting the permission, but intimating that it must be demanded by the United States consul in Para, because this was the admitted rule in Brazil.

The *Wilmington*, however, sailed for Iquitos, taking on board the consul, without waiting the accomplishment of these legal exigencies. This act caused us great surprise, as the commander in his farewell visit to the governor did not inform him of his intention to make his projected voyage independent of permission.

It is possible that this same gunboat intends to visit other Brazilian ports, and your excellency understands how it would be advisable, for the sake of our traditional good relations, that the officer in command should not give more occasion for the same disagreeable impression which has been produced on the Amazonas; and as my Government is convinced that the intention of the United States toward Brazil, as heretofore, is dictated by the most cordial sentiments, I am also convinced that some action will be taken in order to avoid the repetition of such a disagreeable incident and the consequences likely to follow.

Finally, I may inform your excellency that the commander of the *Wilmington*, when he returned to Para, paid another visit to the governor and presented some excuses for his provisional conduct; but whatever may be his reasons, the fact remains that an express rule has been disregarded, without the extenuation of ignorance of its existence.

Accept, sir, etc.,

J. F. DE ASSIS.

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*Mr. Hay to Mr. Assis.*

No. 10.]

DEPARTMENT OF STATE,  
*Washington, May 29, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of May 24 relating to the recent visit of the U. S. gunboat *Wilmington* to the port of Belem, capital of the State of Para, and the incidents connected with this visit.

I note your reference to the assurance of the governor of Para that the United States flag would be, as always, seen with great pleasure in the Brazilian waters, a sentiment in perfect harmony with the friendly intention of the visit to the region of the Upper Amazon, the purpose of which was to obtain information of the commercial possibilities of that promising country. It was expected and believed that a voyage which had no other object than the cultivation of friendly feeling and future enterprise would be received with welcome and appreciation by all the Brazilian officials.

Your note sets forth that, in connection with his friendly greetings, the governor of the State of Para observed to the commander of the *Wilmington* that, as the river ports were not free to foreign war ships, as are the maritime ports, it would be necessary to obtain permission from the Federal Government before undertaking the voyage. In order to save time, and to be agreeable to the commander, the governor himself offered to solicit by telegraph the said permission, a courtesy which the commander gratefully accepted.

Up to this point there is the most perfect accord between the representations of your note and the reports of this voyage received from the Navy Department, with the exception of a single important item. Your note affirms that the request for permission to sail up the Amazon, made through the governor of the State of Para, was

answered immediately by the Federal Government granting the permission, but intimating that it must be demanded by the United States consul at Para because it was the admitted rule in Brazil.

The reports of Commander Todd, of the *Wilmington*, represent that the American consul at Para was informed by the governor of that State that he would communicate to the Federal Government at Rio de Janeiro by cable the desire of the commander of the *Wilmington* to proceed up the Amazon. This promise was made on March 15. Four days later the *Wilmington* left Para for Manaos, the commander having received no intimation that further formalities were necessary, and being assured that the application for permission was a mere matter of form. If, as your note sets forth, permission was immediately granted to the commander of the *Wilmington* upon the request made through the governor of Para, the permission must have been ready before the *Wilmington* sailed. As the request for the permission had been made through the American consul four days previous, it is difficult to understand why it had not be communicated or why complaint should be made of the voyage thus permitted, since the permission was requested in due form by the consul, and, as your note declares, immediately granted.

The reports of Commander Todd show most clearly that he believed he had discharged his duty in communicating the circumstances and intention of the proposed voyage of the *Wilmington* by requesting permission to make it, and by delaying his departure from Para four days after the request had been sent by cable. No objection being offered, and no reply having been received by him, he inferred that there was no impediment to a friendly visit to the waters of a friendly government.

It was not without surprise, therefore, that the commander of the *Wilmington* learned that the governor of the State of Amazonas declined to receive an official call from him, and to consider his request for permission to pass through the waters of that State. He was equally surprised by the conduct of the captain of the port of Manaos in refusing to furnish him with pilots and in sending him an offensive letter in which the commander was addressed without regard to his rank and title and in a tone of discourtesy. The pilots who piloted the *Wilmington* were also prohibited from exercising their profession under pain of heavy penalties.

This Government has learned with deep regret that the populace of Manaos so erroneously interpreted the movements of the *Wilmington* and the action of her commander as to threaten with violence and actually to violate the office of the consular agent of the United States, and to pursue his person with menacing intentions, and considers all the manifestations of unfriendly feeling by officers and citizens of Brazil as wholly unwarranted and undeserved.

The representations of the Brazilian press, also, as appears from extracts sent to this Department, have tended to create false impressions regarding the sentiments of this Government and the conduct of its officers.

The reports which have been submitted to this Department show most explicitly that the commander of the *Wilmington* had no intention of violating the laws or of offending by action or neglect the authorities of Brazil. His conviction that the neglect to reply was equivalent to a tacit permission, if not correct, was undoubtedly sin-

cere, and was based in great part upon the courteous representations of the governor of the State of Para, from whose language he inferred, perhaps erroneously, that a formal permission after notification of intention was not necessary.

Referring to your suggestion that action should be taken to avoid the repetition of such disagreeable incidents, you may assure the Government of Brazil that further visits of the public vessels of the United States to the inland waters of Brazil are not to be expected until the assurance of a friendly reception is accorded them.

I am confident that when the Government of Brazil is made aware of the lack of courtesy with which an American ship on a friendly visit has been treated in Brazilian waters it can not fail to regret the action of its agents, so much at variance with the sentiments of loyal friendship which animate the Governments of both nations.

Accept, etc.,

JOHN HAY.

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*Mr. Assis to Mr. Hay.*

BRAZILIAN LEGATION,  
Washington, D. C., June 10, 1899.

SIR: I have the honor to acknowledge the receipt of your note of May 29 in answer to my own of the 24th of the same month, relating to the incidents connected with the visit of the gunboat *Wilmington* to the Amazonian waters.

In your note referred to you do not deny, as was to be expected from the enlightened mind of the American Government, the perfect right of Brazil to establish that warships of friendly nations may not navigate the national rivers without special permission, asked for and granted in each case. This implies a recognition that, if the gunboat *Wilmington* undertook her voyage on the Amazonas without obtaining such permission, she has committed an irregularity, though this irregularity could be explained, as you say, by the assumption that it has been done in good faith.

The question of principle (the only question Brazil desired to clear up in bringing this affair to your consideration) remains thus satisfactorily settled.

But your note enters into other considerations which oblige me to make the following brief observations, with the intention of elucidating some facts, supported, as I am now, by new official information:

I beg to observe that in my note of May 24 I did not state simply that "permission was immediately granted to the commander of the *Wilmington*" as you affirm in the note I have the honor to consider. These were my very words: "The Federal Government answered immediately, granting the permission, but intimating that it must be demanded by the United States consul in Para, because this was the admitted rule in Brazil." These simple quotations contradict the conclusions you deduced from them.

The Government of Rio de Janeiro, I affirmed and sustain, answered immediately the governor of Para. It answered that, according to the national laws, the application for permission to navigate the Amazonas should be made by the American consul in Para. The telegram

of the governor to the Federal Government was sent on March 16, and the answer was given on the 17th. These dates need no comment.

I am not informed whether the consul made the application which was so courteously and promptly demanded. If not, his conduct would be hardly explainable; if he did, he did wait the answer, and this conduct is not more easily explainable than the former. He could not allege any delay from the Brazilian administration, as you say in your note that the *Wilmington* undertook her voyage only four days after the 15th; that is to say, only two days after the answer from Rio de Janeiro arrived. Your note says:

The reports which have been submitted to this Department show most explicitly that the commander of the *Wilmington* had no intention of violating the laws or of offending by action or neglect the authorities of Brazil. His conviction that neglect to reply was equivalent to a tacit permission, if not correct, was undoubtedly sincere.

First, I deny, in view of the facts, any ground for allegation of neglect. Second, it is certain that he who makes a demand of that character could never consider himself authorized to do what he demanded before receiving the concession asked for.

As regards the demeanor of the populace and the manifestations of the press of the Amazonas to which your note refers (and from which I have no official information, but that I can assure you they would be deeply regretted by the Government and the people of Brazil), no responsibility can be attributed to my Government. I believe that the authorities would have made every effort to avoid such sentiments to be transformed in positive injuries, and there the duties and responsibilities cease.

The governor of the State of Amazonas, of whose lack of cordiality you also complain, informs that he has received the American commander with the sincerest manifestations of friendship; but, after he knew the irregular conditions of the voyage, he deemed it his duty to decline any official relations with him.

It may be like the conduct of the captain of the port of Manaus, whose letter in reply to one of the commander of the *Wilmington* could have only been offensive by the omission of the rank and title of the commander, if that omission would not be a consequence of the want of formality with which the navigation was being performed.

It would be hardly necessary for me to add that the sentiments of Brazil toward the United States of America, as constantly expressed since we exist as a nation, are the strongest presumption that such a disagreeable incident would not occur unless some very serious motives had offended and provoked the popular feelings. It is to be hoped and expected that such motives will never be reproduced. I consider, therefore, useless, Mr. Secretary of State, in answer to the final observation of your note, to affirm, in the name of my Government, that, either in the inland or maritime ports of Brazil, the ships of war of all friendly nations which pay due regard to our laws and sovereignty will be accorded the cordial reception they never fail to receive from the Government and the people of Brazil.

Accept, sir, etc.,

J. F. DE ASSIS.

*Mr. Bryan to Mr. Hay.*

No. 174.]

LEGATION OF THE UNITED STATES,  
*Petropolis, Brazil, July 12, 1899.*

SIR: Referring to the subject of my 149, of April 25, 1899, in order to complete the files of the Department on this question I have the honor to transmit herewith a copy and translation of the recently published report of the minister for foreign affairs, which refers to the *Wilmington* matter.

I have, etc.,

CHARLES PAGE BRYAN.

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[Inclosure.—Translation.]

The decree of December 7, 1866, opened to foreign merchant ships the navigation of the Amazon as far as Tabatinga and of the Madeira as far as Borba. A subsequent decree extended the concession as to the Madeira, permitting its navigation as far as Port San Antonio. Neither one of these decrees refers to ships of war. Such may only ascend these rivers by virtue of a special concession for each case. In accordance with this [rule] proceedings have been had.

In 1878 the American legation, by order of its Government, asked permission for a ship of war to ascend the Amazon as far as the mouth of the Madeira and it was granted, as may be seen in the correspondence annexed to this report. In 1882 the British legation asked if there were in Brazil ports entirely closed to foreign men-of-war. The documents are also attached. It was answered that the ships of war of friendly powers might, without restriction, enter the maritime ports, and that as to river ports the right depended upon a special concession for each case if there were no convention providing otherwise.

Recently and again in conformity with this rule permission was given to the American gunboat *Wilmington* to ascend the Amazon on her way to Iquitos, in Peru. I have to refer to what took place in regard to this.

The governor of the State of Para communicated to me, by a telegram of March 16, that the gunboat's commander desired to undertake such a voyage and that the American consul had asked his intervention with the Federal Government, so that it might be given him without the necessity of renewing the request at Manaus. I answered on the 17th that he might grant the permission when the consul should make the request in writing; and I asked the governor to send word of this to the governor of Amazonas. The commander did not wait for an answer. When it came to Para he had already departed, taking the consul with him. The governor informed him of this fact by telegram of the 19th.

I believed that the commander had acted in this manner because he counted upon a favorable decision, but the governor of Amazonas communicated to me by a telegram of April 19 circumstances which did not justify this supposition. The commander, when he went to thank the governor for the manner in which he had been received, said as he was taking his leave that he was going to return to Belem and from there would proceed to the island of Madeira. He departed at 10 o'clock at night on the 6th. A ship coming from the Solimoes River

reported that it had met the gunboat going up that river, bound for Iquitos.

In view of this information, the truth of which I could not doubt, I sent to the American minister the note you already know about and which I annex to this report.

After this note had been sent I received, upon the 29th of April, the following telegram from the governor of Para:

I have just been visited by the American consul and the commander of the *Wilmington*, who came to bring me their spontaneous excuses for the departure of the *Wilmington* for the Amazon before the arrival of the authorization which, at the request of the said consul, I had solicited from the Federal Government. He had not considered the formality of the license being granted in official form indispensable, and, counting as certain the acquiescence of the Federal Government, wished to hurry the voyage. I am convinced that Consul Kenneday was sincere in making this decision. In the course of the conference I had an opportunity of hearing a satisfactory explanation and protests of sympathy and consideration for and with our country.

## CHILE.

### ASSISTANCE RENDERED TO U. S. S. "NEWARK" BY CHILEAN GOVERNMENT.

*Mr. Wilson to Mr. Hay.*

No. 105.]

LEGATION OF THE UNITED STATES,  
*Santiago, June 26, 1899.*

SIR. I have the honor to confirm my telegram of June 12, 1899, as follows:

*Newark* driven by terrific gales into Port Low, Guaytecas Island, latitude 42° 45'. Coal supply exhausted, but is believed both vessel and crew perfectly safe and no damage done. Chilean Government has just dispatched relief ships with coal and supplies. No telegraphic communications with the island.

Learning from the press reports that the Government was possibly concerned about the fate of the *Newark*, I took steps to obtain information as to the whereabouts of the cruiser, and upon the date of my telegram I received the first information, through unofficial sources. I immediately communicated to you by telegraph such information as I was able to obtain. As reported in my telegram, the Government of Chile promptly and cheerfully accorded the *Newark* every facility for the continuation of her voyage. I received no official communication from the Chilean Government relative to the action which it had taken until this date, when I received a note from the minister of marine, Señor Don Carlos Concha (copy and translation of which I inclose). Although somewhat in violation of precedent, I have thought it best to reply directly to the note of the minister, expressing my appreciation, as representative of the Government of the United States, of the services rendered. I inclose herewith a copy of the note referred to. I am just informed that the *Newark* has arrived in Valparaíso Harbor and is apparently in condition to proceed upon her voyage.

I have, etc.,

HENRY L. WILSON.

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[Inclosure 1.—Translation.]

*Mr. Concha to Mr. Wilson.*

MINISTRY OF MARINE,  
*Santiago, June 24, 1899.*

DISTINGUISHED SIR: The last telegrams received at this ministry announce that the American cruiser *Newark* anchored in the harbor of Ancud, on the 22d of the present month, and that it would sail in the direction of Valparaíso after taking on the necessary coal supplies. I have extreme pleasure in announcing the arrival of the ship to which



I refer, after the difficulties which it has experienced during a voyage, the issue of which has given great concern to the American Government.

I am very happy also to indicate to you that the naval authorities of Chile have extended to the American cruiser every necessary aid, and have given the facilities required for the continuation of the voyage with the full approbation of the Government.

Saluting you attentively,

CARLOS CONCHA.

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[Inclosure 2.]

*Mr. Wilson to Mr. Concha.*

LEGATION OF THE UNITED STATES,

*Santiago, June 24, 1899.*

MR. MINISTER: I beg to acknowledge the receipt of your esteemed note of this date, informing me of the arrival of the American cruiser *Newark* in the harbor of Ancud, and that the Government of Chile, through your department, has cheerfully and promptly accorded to her all the facilities necessary for the continuation of the voyage, which she is making under orders from the Navy Department of the United States. From unofficial sources I learned some time ago of the misadventure which this cruiser had met with, and also of the prompt and generous action taken by your department. By telegram I at once communicated the news of the safety of the ship and the service rendered by your department to the Government of the United States. I have not yet received an official reply to my telegram, but understand that the news communicated not only relieved the great anxiety prevalent in official circles of the Navy Department, but that the action of your Government in affording relief was received with warm appreciation and gratitude. In due season I shall have the pleasure of communicating the official thanks of the Government of the United States to the Government of Chile. In the meantime, Mr. Minister, I beg that you will receive for your department my sincere thanks as the representative of the Government of the United States in Chile, with which I have, etc.,

HENRY L. WILSON.

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*Mr. Adee to Mr. Wilson.*

No. 133.]

DEPARTMENT OF STATE,

*Washington, August 11, 1899.*

SIR: In view of the Navy Department's letter of the 8th instant (copy inclosed), you will convey to the Chilean Government the most cordial thanks of the United States Government for the friendliness and courtesy shown by the Chilean officials, civil and naval, to the U. S. S. *Newark* while in distress at Port Low.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

[Inclosure.]

*Mr. Allen to Mr. Hay.*NAVY DEPARTMENT,  
*Washington, August 8, 1899.*

SIR: The Department is in receipt of two reports from the commanding officer of the *Newark* in regard to the voyage of that vessel from Montevideo to Valparaiso. In both of these he speaks in the most appreciative manner of the friendliness and courtesy displayed by Chilean officials, and particularly by the Chilean naval officials, in supplying the *Newark* with Government coal at Port Low on the 19th of June.

At the time of this occurrence the *Newark*, after contending with a series of heavy gales, had taken refuge in Port Low, completely out of coal. The week had been spent in cutting wood for fuel, hoping in that way to be able to carry fires long enough to steam to Ancud. The wood proved deficient in evaporating power—it was found impracticable to move the vessel with such fuel—and but for the kindly aid of the Chilean Government she would have been in a most disagreeable if not dangerous predicament.

Under these circumstances the Department will be exceedingly gratified if its thanks can be conveyed to the Chilean Government in the most cordial and appreciative tone.

I have, etc.,

CHAS. H. ALLEN,  
*Acting Secretary.*

## CHINA.

### CORRESPONDENCE CONCERNING AMERICAN COMMERCIAL RIGHTS IN CHINA.

FRANCE.

*Mr. Hay to Mr. Vignaud.*

No. 664.]

DEPARTMENT OF STATE,  
*Washington, September 6, 1899.*

SIR: I have to inclose, for your confidential information, copies of instructions I have sent under this date to the United States ambassadors at London, Berlin, and St. Petersburg in reference to the desire of this Government that the Governments of Great Britain, Germany, and Russia make formal declaration of an "open-door" policy in the territories held by them in China.

I am, etc.,

JOHN HAY.

*Inclosures.*

To London, No. 205, September 6, 1899, printed page 131.

To Berlin, No. 927, September 6, 1899, printed page 129.

To St. Petersburg, No. 82, September 6, 1899, printed page 140.

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*Mr. Hay to Mr. Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, November 21, 1899.*

Informally submit to French Government form of declaration outlined in inclosures with instruction No. 664 of September 6, and ask whether France will join.

HAY.

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*Mr. Delcassé to Mr. Porter.*

[Translation.]

FOREIGN AFFAIRS.

(Received at United States embassy at Paris December 16, 1899.)

MY DEAR AMBASSADOR: I find your note awaiting me on my return. The declarations which I made in the Chamber on the 24th of November last, and which I have had occasion to recall to you since then, show clearly the sentiments of the Government of the Republic. It desires throughout the whole of China and, with the quite natural res-

ervation that all the powers interested give an assurance of their willingness to act likewise, is ready to apply, in the territories which are leased to it, equal treatment to the citizens and subjects of all nations, especially in the matter of customs duties and navigation dues, as well as transportation tariffs on railways.

I beg you, my dear ambassador, to accept, etc.,

DELCASSÉ.

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GERMANY.

*Mr. Hay to Mr. White.*

No. 927.]

DEPARTMENT OF STATE,  
*Washington, September 6, 1899.*

SIR: At the time when the Government of the United States was informed by that of Germany that it had leased from His Majesty the Emperor of China the port of Kiao-chao and the adjacent territory in the province of Shantung, assurances were given to the ambassador of the United States at Berlin by the Imperial German minister for foreign affairs that the rights and privileges insured by treaties with China to citizens of the United States would not thereby suffer or be in anywise impaired within the area over which Germany had thus obtained control.

More recently, however, the British Government recognized by a formal agreement with Germany the exclusive right of the latter country to enjoy in said leased area and the contiguous "sphere of influence or interest" certain privileges, more especially those relating to railroads and mining enterprises; but as the exact nature and extent of the rights thus recognized have not been clearly defined, it is possible that serious conflicts of interest may at any time arise not only between British and German subjects within said area, but that the interests of our citizens may also be jeopardized thereby.

Earnestly desirous to remove any cause of irritation and to insure at the same time to the commerce of all nations in China the undoubted benefits which should accrue from a formal recognition by the various powers claiming "spheres of interest" that they shall enjoy perfect equality of treatment for their commerce and navigation within such "spheres," the Government of the United States would be pleased to see His German Majesty's Government give formal assurances, and lend its cooperation in securing like assurances from the other interested powers, that each, within its respective sphere of whatever influence—

First. Will in no way interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be levied

on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The liberal policy pursued by His Imperial German Majesty in declaring Kiao-chao a free port and in aiding the Chinese Government in the establishment there of a custom-house are so clearly in line with the proposition which this Government is anxious to see recognized that it entertains the strongest hope that Germany will give its acceptance and hearty support.

The recent ukase of His Majesty the Emperor of Russia declaring the port of Ta-lien-wan open during the whole of the lease under which it is held from China to the merchant ships of all nations, coupled with the categorical assurances made to this Government by His Imperial Majesty's representative at this capital at the time and since repeated to me by the present Russian ambassador, seem to insure the support of the Emperor to the proposed measure. Our ambassador at the Court of St. Petersburg has in consequence been instructed to submit it to the Russian Government and to request their early consideration of it. A copy of my instruction on the subject to Mr. Tower is herewith inclosed for your confidential information.

The commercial interests of Great Britain and Japan will be so clearly served by the desired declaration of intentions, and the views of the Governments of these countries as to the desirability of the adoption of measures insuring the benefits of equality of treatment of all foreign trade throughout China are so similar to those entertained by the United States, that their acceptance of the propositions herein outlined and their cooperation in advocating their adoption by the other powers can be confidently expected. I inclose herewith copy of the instruction which I have sent to Mr. Choate on the subject.

In view of the present favorable conditions, you are instructed to submit the above considerations to His Imperial German Majesty's Minister for Foreign Affairs, and to request his early consideration of the subject.

Copy of this instruction is sent to our ambassadors at London and at St. Petersburg for their information.

I have, etc.,

JOHN HAY.

*Inclosures.*

To London, September 6, 1899, No. 205, printed page 131.

To St. Petersburg, September 6, 1899, No. 82, printed page 140.

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*Mr. Jackson to Mr. Hay.*

[Telegram.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 4, 1899.*

I have just had a conversation with secretary of state for foreign affairs, who stated that the politics of Germany in the extreme Orient are de facto the politics of the open door, and Germany proposes to maintain this principle in the future. Germany does not wish the

question to become the subject of controversy between the different powers engaged in China. She thinks it would be advantageous for the United States Government to confer with other European Governments having interests in China. If the other cabinets adhere to the proposal of the United States Government, Germany will raise no objection, and Germany is willing to have the Government of the United States inform these other cabinets that no difficulty will come from her if the other cabinets agree.

JACKSON, *Chargé.*

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*Count von Bülow to Mr. White.*

[Translation.]

FOREIGN OFFICE,  
*Berlin, February 19, 1900.*

MR. AMBASSADOR: Your excellency informed me, in a memorandum presented on the 24th of last month, that the Government of the United States of America had received satisfactory written replies from all the powers to which an inquiry had been addressed similar to that contained in your excellency's note of September 26 last, in regard to the policy of the open door in China. While referring to this, your excellency thereupon expressed the wish that the Imperial Government would now also give its answer in writing.

Gladly complying with this wish, I have the honor to inform your excellency, repeating the statements already made verbally, as follows: As recognized by the Government of the United States of America, according to your excellency's note referred to above, the Imperial Government has, from the beginning, not only asserted, but also practically carried out to the fullest extent, in its Chinese possessions, absolute equality of treatment of all nations with regard to trade, navigation, and commerce. The Imperial Government entertains no thought of departing in the future from this principle, which at once excludes any prejudicial or disadvantageous commercial treatment of the citizens of the United States of America, so long as it is not forced to do so, on account of considerations of reciprocity, by a divergence from it by other governments. If, therefore, the other powers interested in the industrial development of the Chinese Empire are willing to recognize the same principles, this can only be desired by the Imperial Government, which in this case upon being requested will gladly be ready to participate with the United States of America and the other powers in an agreement made upon these lines, by which the same rights are reciprocally secured.

I avail myself, etc.,

BÜLOW.

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GREAT BRITAIN.

*Mr. Hay to Mr. Choate.*

No. 205.]

DEPARTMENT OF STATE,  
*Washington, September 6, 1899.*

SIR: The Government of Her Britannic Majesty has declared that its policy and its very traditions precluded it from using any privileges

which might be granted it in China as a weapon for excluding commercial rivals, and that freedom of trade for Great Britain in that Empire meant freedom of trade for all the world alike. While conceding by formal agreements, first with Germany and then with Russia, the possession of "spheres of influence or interest" in China in which they are to enjoy special rights and privileges, more especially in respect of railroads and mining enterprises, Her Britannic Majesty's Government has therefore sought to maintain at the same time what is called the "open-door" policy, to insure to the commerce of the world in China equality of treatment within said "spheres" for commerce and navigation. This latter policy is alike urgently demanded by the British mercantile communities and by those of the United States, as it is justly held by them to be the only one which will improve existing conditions, enable them to maintain their positions in the markets of China, and extend their operations in the future. While the Government of the United States will in no way commit itself to a recognition of exclusive rights of any power within or control over any portion of the Chinese Empire under such agreements as have within the last year been made, it can not conceal its apprehension that under existing conditions there is a possibility, even a probability, of complications arising between the treaty powers which may imperil the rights insured to the United States under our treaties with China.

This Government is animated by a sincere desire that the interests of our citizens may not be prejudiced through exclusive treatment by any of the controlling powers within their so-called "spheres of interest" in China, and hopes also to retain there an open market for the commerce of the world, remove dangerous sources of international irritation, and hasten thereby united or concerted action of the powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China in which the whole western world is alike concerned. It believes that such a result may be greatly assisted by a declaration by the various powers claiming "spheres of interest" in China of their intentions as regards treatment of foreign trade therein. The present moment seems a particularly opportune one for informing Her Britannic Majesty's Government of the desire of the United States to see it make a formal declaration and to lend its support in obtaining similar declarations from the various powers claiming "spheres of influence" in China, to the effect that each in its respective spheres of interest or influence—

First. Will in no wise interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported

through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The recent ukase of His Majesty the Emperor of Russia, declaring the port of Ta-lien-wan open to the merchant ships of all nations during the whole of the lease under which it is to be held by Russia, removing as it does all uncertainty as to the liberal and conciliatory policy of that power, together with the assurances given this Government by Russia, justifies the expectation that His Majesty will cooperate in such an understanding as is here proposed, and our ambassador at the court of St. Petersburg has been instructed accordingly to submit the propositions above detailed to His Imperial Majesty, and ask their early consideration. Copy of my instruction to Mr. Tower is herewith inclosed for your confidential information.

The action of Germany in declaring the port of Kiaochao a "free port," and the aid the Imperial Government has given China in the establishment there of a Chinese custom-house, coupled with the oral assurance conveyed the United States by Germany that our interests within its "sphere" would in no wise be affected by its occupation of this portion of the province of Shang-tung, tend to show that little opposition may be anticipated from that power to the desired declaration.

The interests of Japan, the next most interested power in the trade of China, will be so clearly served by the proposed arrangement, and the declaration of its statesmen within the last year are so entirely in line with the views here expressed, that its hearty cooperation is confidently counted on.

You will, at as early date as practicable, submit the considerations to Her Britannic Majesty's principal secretary of state for foreign affairs and request their immediate consideration.

I inclose herewith a copy of the instruction sent to our ambassador at Berlin bearing on the above subject.

I have the honor to be, etc.,

JOHN HAY.

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*Mr. Choate to Lord Salisbury.*

EMBASSY OF THE UNITED STATES,  
*London, September 22, 1899.*

MY LORD: I am instructed by the Secretary of State to present to your lordship a matter which the President regards as of great and equal importance to Great Britain and the United States—in the maintenance of trade and commerce in the East, in which the interest of the two nations differs, not in character, but in degree only—and to ask for action on the part of Her Majesty's Government which the President conceives to be in exact accord with its uniformly declared policy and traditions, and which will greatly promote the welfare of commerce.

He understands it to be the settled policy and purpose of Great Britain not to use any privileges which may be granted to it in China as a means of excluding any commercial rivals, and that freedom of trade for it in that Empire means freedom of trade for all the world alike. Her Majesty's Government, while conceding by formal agreements with Germany and Russia the possession of "spheres of influence or interest" in China, in which they are to enjoy especial rights



and privileges, particularly in respect to railroads and mining enterprises, has at the same time sought to maintain what is commonly called the "open-door" policy, to secure to the commerce and navigation of all nations equality of treatment within such "spheres." The maintenance of this policy is alike urgently demanded by the commercial communities of our two nations, as it is justly held by them to be the only one which will improve existing conditions, enable them to maintain their positions in the markets of China, and extend their future operations.

While the Government of the United States will in no way commit itself to any recognition of the exclusive rights of any power within or control over any portion of the Chinese Empire, under such agreements as have been recently made, it can not conceal its apprehensions that there is danger of complications arising between the treaty powers which may imperil the rights insured to the United States by its treaties with China.

It is the sincere desire of my Government that the interests of its citizens may not be prejudiced through exclusive treatment by any of the controlling powers within their respective "spheres of interests" in China, and it hopes to retain there an open market for all the world's commerce, remove dangerous sources of international irritation, and thereby hasten united action of the powers at Peking to promote administrative reforms so greatly needed for strengthening the Imperial Government and maintaining the integrity of China, in which it believes the whole Western world is alike concerned. It believes that such a result may be greatly aided and advanced by declarations by the various powers claiming "spheres of interest" in China as to their intentions in regard to the treatment of foreign trade and commerce therein, and that the present is a very favorable moment for informing Her Majesty's Government of the desire of the United States to have it make on its own part and to lend its powerful support in the effort to obtain from each of the various powers claiming "spheres of interest" in China a declaration substantially to the following effect:

(1) That it will in no wise interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory it may have in China.

(2) That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within such "spheres of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

(3) That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The President has strong reason to believe that the Governments of both Russia and Germany will cooperate in such an understanding as is here proposed. The recent ukase of His Majesty the Emperor of Russia declaring the port of Ta-lien-wan open to the merchant ships

of all nations during the whole term of the lease under which it is to be held by Russia removes all uncertainty as to the liberal and conciliatory policy of that power, and justifies the expectation that His Majesty would accede to the similar request of the United States now being presented to him and make the desired declaration.

The recent action of Germany in declaring the port of Kiao-chao a "free port" and the aid which its Government has given China in establishing there a Chinese custom-house, coupled with oral assurances given the United States by Germany that the interests of the United States and its citizens within its "sphere" would in nowise be affected by its occupation of this portion of the province of Shantung, encourage the belief that little opposition is to be anticipated to the President's request for a similar declaration from that power.

It is needless also to add that Japan, the power next most largely interested in the trade of China, must be in entire sympathy with the views here expressed, and that its interests will be largely served by the proposed arrangement; and the declarations of its statesmen within the last year are so entirely in line with it that the cooperation of that power is confidently relied upon.

It is therefore with the greatest pleasure that I present this matter to your lordship's attention and urge its prompt consideration by Her Majesty's Government, believing that the action is in entire harmony with its consistent theory and purpose, and that it will greatly redound to the benefit and advantage of all commercial nations alike. The prompt and sympathetic cooperation of Her Majesty's Government with the United States in this important matter will be very potent in promoting its adoption by all the powers concerned.

I have, etc.,

JOSEPH H. CHOATE.

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE,  
*London, September 29, 1899.*

YOUR EXCELLENCY: I have read with great interest the communication which you handed me on the 23d instant, in which you inform me of the desire of the United States Government to obtain from the various powers claiming spheres of interest in China declarations as to their intentions in regard to the treatment of foreign trade and commerce therein.

I have the honor to inform your excellency that I will lose no time in consulting my colleagues in regard to a declaration by Her Majesty's Government and on the proposal that they should cooperate with the Government of the United States in obtaining similar declarations by the other powers concerned.

In the meantime, I may assure your excellency that the policy consistently advocated by this country is one of securing equal opportunity for the subjects and citizens of all nations in regard to commercial enterprise in China, and from this policy Her Majesty's Government have no intention or desire to depart.

I have, etc.,

SALISBURY.

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE,  
*London, November 30, 1899.*

YOUR EXCELLENCY: With reference to my note of September 29 last, I have the honor to state that I have carefully considered, in communication with my colleagues, the proposal contained in your excellency's note of September 22 that a declaration should be made by foreign powers claiming "spheres of interest" in China as to their intentions in regard to the treatment of foreign trade and interest therein.

I have much pleasure in informing your excellency that Her Majesty's Government will be prepared to make a declaration in the sense desired by your Government in regard to the leased territory of Wei-hai Wei and all territory in China which may hereafter be acquired by Great Britain by lease or otherwise, and all spheres of interest now held or that may hereafter be held by her in China, provided that a similar declaration is made by other powers concerned.

I have, etc.,

SALISBURY.

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*Mr. Choate to Lord Salisbury.*

EMBASSY OF THE UNITED STATES,  
*London, December 6, 1899.*

MY LORD: I have the honor to acknowledge the receipt of your lordship's note of November 30, in which you inform me that, after having carefully considered, in connection with your colleagues, the proposals contained in my note of September 22 last, Her Majesty's Government is prepared to make a declaration in the sense desired by my Government in regard to the leased territory of Wei-hai Wei and all territory in China which may hereafter be acquired by Great Britain by lease or otherwise, and all "spheres of interest" now held, or which may hereafter be held, by her in China, provided that a similar declaration is made by other powers.

In acknowledging your lordship's note, I have also, under instructions from the Secretary of State, to express to your lordship the gratification he feels at the cordial acceptance by Her Britannic Majesty's Government of the proposals of the United States.

I have, etc.,

JOSEPH H. CHOATE.

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ITALY.

*Mr. Hay to Mr. Draper.*

No. 434.]

DEPARTMENT OF STATE,  
*Washington, November 17, 1899.*

SIR: This Government, animated with a sincere desire to insure to the commerce and industry of the United States and of all other

nations perfect equality of treatment within the limits of the Chinese Empire for their trade and navigation, especially within the so-called "spheres of influence or interest" claimed by certain European powers in China, has deemed the present an opportune moment to make representations in this direction to Germany, Great Britain, Japan, and Russia.

To attain the object it has in view and to remove possible causes of national irritation and reestablish confidence so essential to commerce, it has seemed to this Government highly desirable that the various powers claiming "spheres of interest or influence" in China should give formal assurances that—

First. They will in no way interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory they may have in China.

Second. The Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. They will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be levied on vessels of their own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to their own nationals transported over equal distances.

The policy pursued by His Imperial German Majesty in declaring Tsing-tao (Kiao-chao) a free port and in aiding the Chinese Government in establishing there a custom-house, and the ukase of His Imperial Russian Majesty of August 11 last erecting a free port at Dalny (Ta-lien-wan) are thought to be proof that these powers are not disposed to view unfavorably the proposition to recognize that they contemplate nothing which will interfere in any way with the enjoyment by the commerce of all nations of the rights and privileges guaranteed to them by existing treaties with China.

Repeated assurances from the British Government of its fixed policy to maintain throughout China freedom of trade for the whole world insure, it is believed, the ready assent of that power to our proposals. The commercial interests of Japan will also be greatly served by the above-mentioned declaration, which harmonizes with the assurances conveyed to this Government at various times by His Imperial Japanese Majesty's diplomatic representative at this capital.

In view of the important and growing commercial interests of Italy in eastern Asia, it would seem desirable that His Majesty's Government should also be informed of the steps taken by the United States to insure freedom of trade in China, in which it would find equal advantages to those which the other nations of Europe expect.

You are therefore instructed to submit to His Majesty's minister for foreign affairs the above considerations and to invite his early attention to them, expressing, in the name of your Government, the hope that they will prove acceptable, and that His Majesty's Government will lend its aid and valuable assistance in securing their acceptance by the other interested powers.

I inclose, for your personal and confidential information, copies of the instructions sent to our ambassadors at Berlin, London, St. Petersburg, and to our minister at Tokyo.

I am, etc.,

JOHN HAY.

*Inclosures.*

To Great Britain, to Russia, to Germany, September 6, 1899, printed pages 129, 131, 140.

To Japan, November 13, 1899, printed below.

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*Visconti Venosta to Mr. Draper.*

[Translation.]

ROME, January 7, 1900.

MR. AMBASSADOR: Supplementary to what you had already done me the honor of communicating to me in your note of December 9, 1899, your excellency informed me yesterday of the telegraphic note received from your Government that all the powers consulted by the Cabinet of Washington concerning the suitability of adopting a line of policy which would insure to the trade of the whole world equality of treatment in China have given a favorable reply.

Referring to your communications and to the statements in my note of December 23 last, I take pleasure in saying that the Government of the King adheres willingly to the proposals set forth in said note of December 9.

I beg your excellency to kindly convey the notice of our adhesion to the Cabinet of Washington, and I avail myself of the occasion to renew to you, etc.

VISCONTI VENOSTA.

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JAPAN.

*Mr. Hay to Mr. Buck.*

No. 263.]

DEPARTMENT OF STATE,  
Washington, November 13, 1899.

SIR: This Government, animated with a sincere desire to insure to the commerce and industry of the United States and of all other nations perfect equality of treatment within the limits of the Chinese Empire for their trade and navigation, especially within the so-called "spheres of influence or interest" claimed by certain European powers in China, has deemed the present an opportune moment to make representations in this direction to Germany, Great Britain, and Russia.

To obtain the object it has in view and to remove possible causes of international irritation and reestablish confidence so essential to commerce, it has seemed to this Government highly desirable that the various powers claiming "spheres of influence or interest" in China should give formal assurances that—

First. They will in no way interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory they may have in China.

Second. The Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said

“sphere of interest” (unless they be “free ports”), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. They will levy no higher harbor dues on vessels of another nationality frequenting any port in such “sphere” than shall be levied on vessels of their own nationality, and no higher railroad charges over lines built, controlled, or operated within such “sphere” on merchandise belonging to citizens or subjects of other nationalities transported through such “sphere” than shall be levied on similar merchandise belonging to their own nationals transported over equal distances.

The policy pursued by His Imperial German Majesty in declaring Tsing-tao (Kiao-chao) a free port and in aiding the Chinese Government in establishing there a custom-house, and the ukase of His Imperial Russian Majesty of August 11 last in erecting a free port at Dalny (Ta-lien-wan) are thought to be proof that these powers are not disposed to view unfavorably the proposition to recognize that they contemplate nothing which will interfere in any way with the enjoyment by the commerce of all nations of the rights and privileges guaranteed to them by existing treaties with China.

Repeated assurances from the British Government of its fixed policy to maintain throughout China freedom of trade for the whole world insure, it is believed, the ready assent of that power to our proposals. It is no less confidently believed that the commercial interests of Japan would be greatly served by the above-mentioned declaration, which harmonizes with the assurances conveyed to this Government at various times by His Imperial Japanese Majesty’s diplomatic representative at this capital.

You are therefore instructed to submit to His Imperial Japanese Majesty’s Government the above considerations, and to invite their early attention to them, and express the earnest hope of your Government that they will accept them and aid in securing their acceptance by the other interested powers.

I am, etc.,

JOHN HAY.

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*Viscount Aoki to Mr. Buck.*

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,

*Tokyo, the 26th day, the 12th month of the 32d year of Meiji,*  
*(December 26, 1899).*

MR. MINISTER: I have the honor to acknowledge the receipt of the note No. 176 of the 20th instant, in which, pursuing the instructions of the United States Government, your excellency was so good as to communicate to the Imperial Government the representations of the United States as presented in notes to Russia, Germany, and Great Britain on the subject of commercial interests of the United States in China.

I have the happy duty of assuring your excellency that the Imperial Government will have no hesitation to give their assent to so just and fair a proposal of the United States, provided that all the other powers concerned shall accept the same.

I avail myself, etc.,

VISCOUNT AOKI SIUZO,  
*Minister for Foreign Affairs.*

## RUSSIA.

*Mr. Hay to Mr. Tower.*

No. 82.]

DEPARTMENT OF STATE,  
*Washington, September 6, 1899.*

SIR: In 1898, when His Imperial Majesty had, through his diplomatic representative at this capital, notified this Government that Russia had leased from His Imperial Chinese Majesty the ports of Port Arthur, Ta-lien-wan, and the adjacent territory in the Liao-tung Peninsula in northeastern China for a period of twenty-five years, your predecessor received categorical assurances from the imperial minister for foreign affairs that American interests in that part of the Chinese Empire would in no way be affected thereby, neither was it the desire of Russia to interfere with the trade of other nations, and that our citizens would continue to enjoy within said leased territory all the rights and privileges guaranteed them under existing treaties with China. Assurances of a similar purport were conveyed to me by the Emperor's ambassador at this capital, while fresh proof of this is afforded by the imperial ukase of <sup>July 30</sup> <sub>August 11</sub> last, creating the free port of Dalny, near Ta-lien-wan, and establishing free trade for the adjacent territory.

However gratifying and reassuring such assurances may be in regard to the territory actually occupied and administered, it can not but be admitted that a further, clearer, and more formal definition of the conditions which are henceforth to hold within the so-called Russian "sphere of interest" in China as regards the commercial rights therein of our citizens is much desired by the business world of the United States, inasmuch as such a declaration would relieve it from the apprehensions which have exercised a disturbing influence during the last four years on its operations in China.

The present moment seems particularly opportune for ascertaining whether His Imperial Russian Majesty would not be disposed to give permanent form to the assurances heretofore given to this Government on this subject.

The ukase of the Emperor of August 11 of this year, declaring the port of Ta-lien-wan open to the merchant ships of all nations during the remainder of the lease under which it is held by Russia, removes the slightest uncertainty as to the liberal and conciliatory commercial policy His Majesty proposes carrying out in northeastern China, and would seem to insure us the sympathetic and, it is hoped, favorable consideration of the propositions hereinafter specified.

The principles which this Government is particularly desirous of seeing formally declared by His Imperial Majesty and by all the great powers interested in China, and which will be eminently beneficial to the commercial interests of the whole world, are:

First. The recognition that no power will in any way interfere with any treaty port or any vested interest within any leased territory or within any so-called "sphere of interest" it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. That it will levy no higher harbor dues on vessels of another

nationality frequenting any port in such "sphere" than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The declaration of such principles by His Imperial Majesty would not only be of great benefit to foreign commerce in China, but would powerfully tend to remove dangerous sources of irritation and possible conflict between the various powers; it would reestablish confidence and security, and would give great additional weight to the concerted representations which the treaty powers may hereafter make to His Imperial Chinese Majesty in the interest of reform in Chinese administration so essential to the consolidation and integrity of that Empire, and which, it is believed, is a fundamental principle of the policy of His Majesty in Asia.

Germany has declared the port of Kiao-chao, which she holds in Shangtung under a lease from China, a free port, and has aided in the establishment there of a branch of the imperial Chinese maritime customs. The imperial German minister for foreign affairs has also given assurances that American trade would not in any way be discriminated against or interfered with, as there is no intention to close the leased territory to foreign commerce within the area which Germany claims. These facts lead this Government to believe that the Imperial German Government will lend its cooperation and give its acceptance to the proposition above outlined, and which our ambassador at Berlin is now instructed to submit to it.

That such a declaration will be favorably considered by Great Britain and Japan, the two other powers most interested in the subject, there can be no doubt. The formal and oft-repeated declarations of the British and Japanese Governments in favor of the maintenance throughout China of freedom of trade for the whole world insure us, it is believed, the ready assent of these powers to the declaration desired.

The acceptance by His Imperial Majesty of these principles must therefore inevitably lead to their recognition by all the other powers interested, and you are instructed to submit them to the Emperor's minister for foreign affairs and urge their immediate consideration.

A copy of this instruction is sent to our ambassadors at London and Berlin for their confidential information, and copies of the instructions sent to them on this subject are inclosed herewith.

I have, etc.,

JOHN HAY.

*Inclosures.*

To London, September 6, 1899, No. 205, printed page 131.  
To Berlin, September 6, 1899, No. 927, printed page 129.

*Count Mouravieff to Mr. Tower.*

[Translation.]

No. 761.]

MINISTRY OF FOREIGN AFFAIRS,  
*December 18-30, 1899.*

MR. AMBASSADOR: I had the honor to receive your excellency's note dated the 8th-20th of September last, relating to the principles which



the Government of the United States would like to see adopted in commercial matters by the powers which have interests in China.

In so far as the territory leased by China to Russia is concerned, the Imperial Government has already demonstrated its firm intention to follow the policy of "the open door" by creating Dalny (Ta-lien-wan) a free port; and if at some future time that port, although remaining free itself, should be separated by a customs limit from other portions of the territory in question, the customs duties would be levied, in the zone subject to the tariff, upon all foreign merchandise without distinction as to nationality.

As to the ports now opened or hereafter to be opened to foreign commerce by the Chinese Government, and which lie beyond the territory leased to Russia, the settlement of the question of customs duties belongs to China herself, and the Imperial Government has no intention whatever of claiming any privileges for its own subjects to the exclusion of other foreigners. It is to be understood, however, that this assurance of the Imperial Government is given upon condition that a similar declaration shall be made by other powers having interests in China.

With the conviction that this reply is such as to satisfy the inquiry made in the aforementioned note, the Imperial Government is happy to have complied with the wishes of the American Government, especially as it attaches the highest value to anything that may strengthen and consolidate the traditional relations of friendship existing between the two countries.

I beg you to accept, etc.,

COUNT MOURAVIEFF.

*Instructions sent mutatis mutandis to the United States ambassadors at London, Paris, Berlin, St. Petersburg, and Rome, and to the United States minister at Tokyo.*

DEPARTMENT OF STATE,  
Washington, March 20, 1900.

SIR: The ——— Government having accepted the declaration suggested by the United States concerning foreign trade in China, the terms of which I transmitted to you in my instruction No. ——— of ———, and like action having been taken by all the various powers having leased territory or so-called "spheres of interest" in the Chinese Empire, as shown by the notes which I herewith transmit to you, you will please inform the Government to which you are accredited that the condition originally attached to its acceptance—that all other powers concerned should likewise accept the proposals of the United States—having been complied with, this Government will therefore consider the assent given to it by ——— as final and definitive.

You will also transmit to the minister for foreign affairs copies of the present inclosures, and by the same occasion convey to him the expression of the sincere gratification which the President feels at the successful termination of these negotiations, in which he sees proof of the friendly spirit which animates the various powers interested in the untrammelled development of commerce and industry in the Chinese Empire, and a source of vast benefit to the whole commercial world.

I am, etc.,

JOHN HAY.

Mr. Delcassé to Mr. Porter (received December 16, 1899), translation.  
Mr. Jackson to Mr. Hay, telegram, December 4, 1899.  
Count von Bülow to Mr. White, February 19, 1900, translation.  
Lord Salisbury to Mr. Choate, November 30, 1899.  
Marquis Visconti Venosta to Mr. Draper, January 7, 1900, translation.  
Viscount Aoki to Mr. Buck, December 26, 1899, translation.  
Count Mouravieff to Mr. Tower, December 18, 1899, translation.

*Mr. Conger to Mr. Hay.*

SIR: I have the honor to confirm, on the overleaf, my telegram of the 22d ultimo and the Department's reply of the following 23d.

On August 24 Consul-General Goodnow wrote me that the French claimed in their settlement exclusive jurisdiction over persons and property of whatever nationality, and although this had never been conceded either by the English or Americans, and the question had not for many years come to an issue, yet as considerable American property was included in the proposed extension, the owners were quite anxious that their rights to trial under their own laws should be preserved.

I replied that the matter might be tested by an assertion of our treaty rights, etc., whenever a real case arose, but suggested that meanwhile he advise the property owners to place on file through him a protest, with the proper provincial officials, against being included in the extension, except upon some guaranteed reservation of their present rights of trial.

On November 19 Consul-General Goodnow wrote me that the French consul-general had agreed with him and the British consul-general "that he will not ask to have our land registered in his consulate; will not claim jurisdiction over persons or property of others than French; that no land or police regulations shall be adopted affecting the rights and privileges of our nationals without our consent."

Relying on this I made no protest, but on the 22d ultimo the English minister informed me that his Government had instructed him to protest energetically against any French extension that included British-owned property without the consent of the British Government, and was anxious that I should do the same thing.

Believing, under the circumstances, that the objections of the English were mainly political, I wired as I did, so that if any communication on the subject had reached the Department from London, and it was thought wise or desirable to please the English in this matter, you could instruct me accordingly.

Since then I have received protests of the American landowners, merchants, and missionaries at Shanghai against having their property

<sup>1</sup> All printed *ante*.

included in the extension, and Consul-General Goodnow wires me that recent actions look to the exclusive French control. Moved, therefore, by the wishes of these American property owners, and believing it better for all future trade at Shanghai that no single power should extend its settlement boundaries with exclusive jurisdiction, I have to-day, acting upon your telegraphic authority, filed with the tsungli yamen the protest a copy of which I inclose.

A telegram has just been received from Consul-General Goodnow that the taotai has been instructed to negotiate with the Germans, English, Japanese, Russians, French, and Americans an internal extension, but none to any individual power.

It would be a fortunate outcome if the French could be induced to join the so-called Anglo-American settlement, and thus insure the future of one international settlement under a combined jurisdiction, but France is not likely to give her consent.

I have, etc.,

E. H. CONGER.

*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, December 22, 1898.

Proposed French settlement extension Shanghai with exclusive jurisdiction includes American property. Owners object. Great Britain instructs minister protest energetically to an extension unless under combined jurisdiction. Shall I protest?

CONGER.

*Mr. Hay to Mr. Conger.*

[Telegram.]

WASHINGTON, December 23, 1898.

Protest French extension if against American interests.

HAY.

[Inclosure.]

*Mr. Conger to the tsungli yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, January 5, 1899.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to inform your highness and your excellencies that he is instructed by his Government to protest against the proposed extension of the French settlement, or any other, at Shanghai which will bring American-owned property under the jurisdiction of any single foreign power.

The undersigned avails, etc.,

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 146.]

DEPARTMENT OF STATE,  
*Washington, March 21, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 129, of January 5, last, reporting your action in the matter of the proposed extension of the French settlement at Shanghai.

In reply I have to inform you that the substance of your dispatch has been informally communicated to the British ambassador at this capital.

I am, etc.,

JOHN HAY.

*Mr. Conger to Mr. Hay.*

No. 171.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, March 24, 1899.*

SIR: Consul-General Goodnow has undoubtedly kept the Department fully advised concerning the efforts made at Shanghai to extend the foreign settlement, but I have the honor to add that a few days since Mr. Pichon, the French minister, filed a protest with the tsungli yamen against such extension, on the ground that in 1896 the diplomatic corps had unanimously agreed to the extension of both the French and the so-called Anglo-American settlement, and the dean, Colonel Denby, made formal request of the tsungli yamen for both extensions, but that now the general foreign settlement was including in their demand a part of the land conceded to the French in 1896. This, however, is an error, and upon explaining to him that, although the taotai offered such land to the general foreign settlement, it was not asked for and was not wanted he said he had no objection to the extension.

He, however, expressed the opinion that Great Britain and the United States ought to withdraw their opposition to the extension of the French settlement.

For my part, I can see no good reason for this objection to the extension of the French settlement. The tract is a small one, it immediately adjoins their settlement, and is not desired in the general settlement. It is true it includes some British and American owned property, but the French minister promises that it may be excepted from their exclusive jurisdiction; and it seems to me they will be much better off in a French settlement than outside of any.

The British opposition to the extension of the French settlement comes principally from London, and is evidently directed against any increase of French power or holdings in the Yangtze Valley.

This extension, however, simply gives them a little more territory, but can add practically nothing to their power or influence.

The Chinese Government is opposed to granting any extension, and is of course delighted with any foreign disagreement which will obstruct or prevent it.

However, the necessity for the extension of the general settlement is so pressing that I have agreed with my British and German colleagues to each send a note to the tsungli yamen urgently requesting an adjustment of the matter as proposed by the several consuls-general.

I believe that the Japanese minister will also send a like note.  
I inclose a copy of mine which was sent to the tsungli yamen yesterday.

I have, etc.,

E. H. CONGER.

[Inclosure.]

*Mr. Conger to the tsungli yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, March 23, 1899.*

In reference to the negotiations which have for so long a time been going on at Shanghai for the extension of the general foreign settlement at that port, and which have been at several times so nearly completed, the undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, is now informed by the United States consul-general that the matter seems at present at a standstill, because the Taotai desires to include in the extension certain tracts of land in the Pa Hsien Joa, which have not been asked for and which are not desired.

The rapidly increasing population of Shanghai, the enormous growth of its business, and the consequent requirements of sanitation, police regulations, and economic administration make this extension an absolute necessity.

Its necessity is a legitimate development and outgrowth of the conditions which, under the treaties and the provisions of the existing concessions, agreed to by the Chinese Government, make it the reasonable and humane duty of the Chinese Government to grant the extension, as well as the duty of the foreign representatives to demand it.

The Chinese Government has permitted the growth of this settlement to its present proportions, has agreed to the investing of immense capital in and about it, is thus responsible for the permanent location there of thousands of foreigners, and, having done this, it should not now restrict them to conditions which threaten them with disease and death.

The request is a reasonable and legitimate one, is approved by the representatives of all the treaty powers interested, and health and humanity imperatively demand it. The interest of the undersigned, not only in the welfare of his own nationals, but in the general good of all the inhabitants of the present settlement, the proposed extension and its environs, compels him to join his colleagues in a most urgent and earnest request that your highness and your excellencies will forthwith instruct the viceroy at Nankin to order the Shanghai taotai to immediately meet the consuls-general in a fair and reasonable spirit, and settle the matter in accordance with the just terms which they propose.

The undersigned avails, etc.,

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 168.]

DEPARTMENT OF STATE,  
*Washington, April 22, 1899.*

SIR: I inclose herewith translation of a note from the French ambassador at Washington and a copy of my reply<sup>1</sup> in relation to the extension of the French concession and the foreign settlement at Shanghai.

In fulfillment of my promise to Mr. Cambon you are instructed to report the situation fully to me, accompanying your report by maps and plans distinctly showing exactly what privileges are sought in behalf of France, or in behalf of the proposed general foreign settlement, with a statement of what American interests, if any, are compromised within the territory which is proposed to be added to the French concession or to the foreign settlement.

<sup>1</sup>Printed under France, pp. 279, 281.

You will also notice my statement to Mr. Cambon, that while reserving all rights of equality of treatment for the United States in whatever solution may be eventually arranged, any steps that you may adopt toward reaching such a solution shall be taken in a spirit of mutual consideration, giving to all ascertained foreign interests in the premises the same respect as you shall ask for the interests of the United States.

Consul-General Goodnow is to-day instructed to make a report in the matter to you directly.

I am, etc.,

JOHN HAY.

*Mr. Conger to Mr. Hay.*

No. 203.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, May 11, 1899.*

SIR: I have the honor to report the conclusion of arrangements for the extension of the Shanghai settlement, the details of which have already been transmitted to the Department by Consul-General Goodnow.

They have my approval and I trust will be satisfactory to the Department of State.

I have, etc.,

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 183.] DEPARTMENT OF STATE,  
*Washington, June 12, 1899.*

SIR: I have to acknowledge the receipt of your dispatch, No. 171, of March 24 last, on the subject of the extension of the general foreign settlement and of the French settlement at Shanghai, and reporting that you have agreed with your British and German colleagues to send each a note to the Tsungli Yamen urgently requesting an adjustment of the matter of the extension of the general settlement as proposed by the several consuls-general.

The Department approves the note that you have accordingly written to the Yamen on the subject, a copy of which accompanies your dispatch.

Since the receipt of your No. 171 a telegram has reached the Department from Consul-General Goodnow, dated the 3d ultimo, reporting that the extension of the "international settlement" at Shanghai had been granted satisfactorily, to which a reply was made by the Department on the 11th ultimo, that it waited the receipt of his confirmatory dispatch, giving the particulars, before expressing an opinion thereon.

With reference to the French concession I inclose herewith, for your information, a copy of a note<sup>1</sup> that I have this day addressed to the French ambassador at Washington on the subject.

I am, etc.,

JOHN HAY.

*Mr. Conger to Mr. Hay.*

No. 228.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 5, 1899.*

SIR: In compliance with Department's instructions No. 168 of April 22 last, in relation to settlement extension at Shanghai, I have the honor to report that when the French minister ascertained definitely that the proposed extension of the so-called foreign or international settlement in no way interfered with the plan agreed upon for the extension of both settlements in 1896, or in any way trespassed upon ground which might eventually be required for extension of the French settlement, he ceased his opposition, and the limits of the foreign settlement were agreed upon and the extension granted, as you will observe on the accompanying map,<sup>1</sup> bounded by the red line. It is also agreed in the concession for the extension that the foreigners may own property and the municipality exercise authority over roads, police, sanitation, and lighting in the Paoshan district, extending as far as and including Wosung.

The French now ask for a small extension in the rear of their settlement, which on the map is included within the dotted black lines.

This is substantially the extension agreed upon by the diplomatic corps in 1896, and includes no American-owned property whatever. I can therefore see no good ground for objecting, and have already approved Consul-General Goodnow's agreement to the same. At the time of my protest against the French extension it was proposed to include therein the American-owned hospital, school, and mission property, so designated on the map, and as the French claim exclusive jurisdiction within their settlement, the protest was wholly justifiable.

I believe the exclusive jurisdiction claimed in the French settlement has never been conceded by either the representatives of Great Britain or the United States. But the small extension of territory will change the situation as to this question neither for better or for worse, and it seems to me that it may properly be left for adjustment, if necessary, apart from the question of territorial extension. The British are still opposing the French extension, but upon what specific grounds I have not been able as yet to ascertain.

I have, etc.

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 189.] DEPARTMENT OF STATE,  
*Washington, July 8, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 203, of May 11 last, reporting the conclusion of arrangements for the extension of the foreign settlement at Shanghai, some of the particulars of which are reported in Consul-General Goodnow's despatch No. 195, of May 9 last.

You add that the arrangements have your approval.

In reply I have to say that the Department awaits a full report from Consul-General Goodnow, before expressing an opinion on the subject.

I am, etc.,

JOHN HAY.

<sup>1</sup> Not printed.

*Mr. Conger to Mr. Hay.*

No. 231.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 12, 1899.*

SIR: In continuation of dispatch No. 228, concerning settlement extension at Shanghai, I have to report that the amended land regulations fixing the boundaries of the extended international settlement sent up here by the Shanghai consular body for formal approval by the diplomatic corps have been approved by all the corps except the French and Russian ministers, who condition their approval upon the maintenance of the agreement made in 1896 for the extension of both settlements. I suppose this is in retaliation for the British opposition to the small extension now asked for by the French.

I have, etc.,

E. H. CONGER.

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*Mr. Adee to Mr. Conger.*

No. 206.] DEPARTMENT OF STATE,  
*Washington, August 26, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 228, of the 5th July last, wherein, complying with the Department's instruction No. 168, of April 22, 1899, you report in relation to the arrangements for the extension of the international and French settlements at Shanghai.

The arrangement you report, by which, in addition to a definite demarkation of the extension granted to the so-called foreign or international settlement, a small extension of the separate French settlement toward the south is defined and marked, appear to be open to no valid objection on our part, inasmuch as the contemplated French extension is stated by you to include no American-owned property whatever, and to be, moreover, in substantial accord, so far as France is concerned, with the agreement reached by the diplomatic corps in 1896. It seems also to be in the line of the Department's instruction to you, No. 168, of April 22 last.

In your later dispatch, No. 231, of July 12, you state that the amended land regulations fixing the boundaries of the extended international settlement, which were sent up to Peking by the Shanghai consular body for formal approval by the diplomatic corps, have been approved by all the corps except the French and Russian ministers. This course meets with approval so far as your action is concerned.

It appears from your dispatch No. 231 that the French and Russian ministers make their approval conditional upon the maintenance of the agreement made in 1896 for the extension of both the international and the French settlements.

The Department sees no present occasion for opposing the condition asked by the French minister. The opposition lately shown by this Government to such extension rested upon the fact that the land at first claimed by the French Government included the American-owned hospital, school, and missionary property designated on the map which you send; and our objection was based upon the undesirability of admitting exclusive jurisdiction by the French over such American property. As the line of the proposed French extension has now been



drawn so as to carefully exclude the property mentioned, while no other American-owned property seems to be affected, that objection disappears, and the Department is unaware of any fresh objection on the ground of injury to present or prospective American interests. It is, however, without any information respecting any claim of the Russian Government to an independent Russian settlement at Shanghai, and is unaware whether any American-owned property is, or is likely to be, affected thereby. If there be any such property included in the Russian claim, the instructions heretofore given you in respect to the French claim will hold good, and you will be authorized to make specific objection on like grounds.

As was said in Mr. Hay's instruction, No. 168, of April 22, the intention of this Government is that—

while reserving all rights of equality of treatment for the United States in whatever solution may be eventually arranged, any steps that you may adopt toward reaching such a solution shall be taken in a spirit of mutual consideration, giving to all ascertained foreign interests in the premises the same respect as you shall ask for the interests of the United States.

You will bear this in mind should you ascertain that the British objection to the French extension, the specific grounds of which you had not, at the time of writing, been able to learn, is one in which foreign interests, including those of the United States, may properly share. In the absence of knowledge on this point the Department is not able to instruct you more precisely at present, but leaves the matter to your good judgment, subject to instructions should the circumstances seem to you to require them.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

#### JAPANESE CONCESSION AT AMOY.

*Mr. Conger to Mr. Hay.*

No. 132.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, January 20, 1899.*

SIR: I have the honor to report that I have received a dispatch from Consul Johnson, of Amoy, stating that the Japanese Government are negotiating for large concessions of foreshore and other lands at Amoy, which negotiations, "if successful, will virtually put a stop to all contemplated moves on the part of our Government here," and requests instructions.

He also writes that he has already reported the situation in detail to the Department of State, particularly setting forth the magnitude and importance of the trade between Amoy and Manila, and that upon the recommendation of the judge-advocate-general of Manila our Government is considering the advisability of making Amoy the base of supplies for Manila in China.

In view of the fact that all negotiations are at present being carried on by the Japanese consul with the local authorities, and that the Department, through Consul Johnson, is fully informed upon the situation, I have telegraphed him to wire the Department for instructions.

I shall be glad to be kept informed as to Consul Johnson's instruc-

tions in the matter so that I may be able to intelligently take up the matter here when so instructed, if that shall become necessary.

I have, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 142.]

DEPARTMENT OF STATE,  
*Washington, March 13, 1899.*

SIR: I have to acknowledge the receipt of your dispatch, No. 132, of January 20 last, stating that you have instructed our consul at Amoy to telegraph to the Department for instructions respecting the efforts of Japan to obtain concessions of foreshore and other lands at Amoy.

In reply, I inclose herewith for your information a copy of the instruction sent to him on the subject.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Cridler to Mr. Johnson.*

No. 42.]

DEPARTMENT OF STATE,  
*Washington, March 9, 1899.*

SIR: Referring to your No. 38 bis of January 12 last and to your telegram of the 2d instant, both relative to proposed concessions of foreshore holdings at Amoy to the Japanese Government, you are instructed to remonstrate against any interference with or discrimination against any legitimate American rights.

A telegram to this effect has to-day been sent to you.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

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*Mr. Conger to Mr. Hay.*

No. 169.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, March 24, 1899.*

SIR: On the overleaf, herewith, I have the honor to confirm my telegram of the 23d instant.

This information was given me by the tsungli yamen during a visit there on the 22d instant, and I was asked if it was true.

I replied that I had not yet received instructions, but as soon as I did I would inform them. They said that the negotiations with Japan for a settlement at Amoy was begun some two years ago, and at most was to be a very small one.

The Japanese minister has also called upon me, and informed me that he has just received from the Japanese consul a telegram substantially as follows:

United States consul told me that he, in accordance with the instructions received from the Department of State, wrote to the local authorities inquiring if the Chinese Government will concede the same privilege in securing American settlement at Amoy. He further told me that the intention of the United States Government is only to remonstrate against discrimination and interference with American interests, and that he will do his best for us.

The Japanese minister also says that the settlement area which they ask for covers only about 40 acres; and that, if there is any conflict of American and Japanese interests in the matter, he is certain his Government will be glad to confer in a friendly spirit and adjust it amicably.

Unless the area asked for by the Japanese comprises all the available or desirable tracts for such purpose, leaving no place for us, in case we ever should wish a settlement, does the Department wish opposition made?

I have, etc.,

E. H. CONGER.

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[Inclosure.—Telegram.]

*Mr. Conger to Mr. Hay.*

PEKIN, March 23, 1899.

The viceroy of Fukien telegraphs that United States consul at Amoy has protested against granting settlement to Japan unless one is granted the United States. Is this your desire?

CONGER.

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 24, 1899.

Acting consul at Amoy, having asked whether to oppose Japanese concession, was telegraphed March 9 to remonstrate against discrimination or interference with legitimate American interests. This was intended to prevent possible transfer of existing American rights to Japanese administration. He has not been instructed to ask an American concession, but if China is disposed to grant separate concessions at Amoy, we should expect no less consideration than other friendly powers.

HAY.

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*Mr. Adee to Mr. Conger.*

No. 211.]

DEPARTMENT OF STATE,  
Washington, September 19, 1899.

SIR: I have to acknowledge the receipt of your telegram of the 1st instant, reading as follows:

Japanese Government granted concession at Amoy less than 40 acres. Exact limits not yet fixed.

CONGER.

The Department awaits your full report on the subject, showing especially whether any movement is in progress to obtain a grant of an international foreign settlement at Amoy, or to give American interests a privilege equivalent to that granted to Japan.

I am, etc.,

ALVEY A. ADEE,  
Acting Secretary.

*Mr. Conger to Mr. Hay.*

NO. 290.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, December 9, 1899.*

SIR: Complying with Department's instructions No. 211 of September 19 last, I have the honor to inclose a copy of Consul Johnson's final report upon the Japanese concession at Amoy, and to say that no effort is at present being made to obtain an international foreign settlement, nor secure to American interests privileges equivalent to those granted to Japan.

The few Americans there do not need such a concession, nor could they afford the expense of controlling and keeping it up.

I have, etc.,

E. H. CONGER.

[Inclosure.]

*Mr. Johnson to Mr. Conger.*

CONSULATE OF THE UNITED STATES OF AMERICA,  
*Amoy, China, November 21, 1899.*

SIR: I have the honor to acknowledge receipt of a legation dispatch, No. 455, requesting that I report the result of the pending negotiations for a Japanese settlement at Amoy.

In reply, I beg to state that preliminary negotiations regarding the concession closed 25th of October. The papers were signed by the Japanese consul, Uyeno, the taotai and acting provincial treasurer, Chew, of Fuchau.

The area of the concession is about 40,000 ken (one ken equals 6 feet). The amount of land actually included in the concession measures only 28,000 ken. The Japanese may reclaim enough foreshore in front of the concession to make up the 40,000 ken.

The houses owned by individuals within the concession are to be purchased by the Japanese, when wanted, at a price to be agreed upon with the Chinese commercial committee.

There was no formal public ceremony in connection with the transfer, and actual possession was not marked by any overt act or notice to the public beyond the posting of a proclamation by the taotai, several days previous to the signing of the paper, setting forth the fact that such a settlement was about to be granted, explaining its nature, and urging the people to make no demonstration, as their property rights would be protected.

The Chinese officials seem to think that the terms of the agreement are very satisfactory from their standpoint.

The ground included in the concession is not only very limited in area, but is far from being conspicuous on account of its desirability. It has been kept within the limits suggested to me by the Japanese consul at the time I remonstrated against the granting of the large area first surveyed by the Japanese and Chinese officials, which facts have been fully reported by me.

Owing to the disturbance at the time the boundaries were being marked, it was deemed advisable by Japanese to avoid all public demonstration and rest content for the present with the adjustment of the matter on paper.

Further resistance on the part of the inhabitants is not anticipated.

I have, etc.,

A. BURLINGAME JOHNSON, *Consul.*

## MISSIONARY TROUBLES IN SHANTUNG.

*Mr. Conger to Mr. Hay.*

No. 142.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, February 8, 1899.*

SIR: I have the honor to inclose herein copies of three letters from Revs. Chalfant, Faris, and Killie, American missionaries in Shantung, relating to a series of riotous incidents culminating in attacks upon their mission property and general interference with the work of both foreign and native Christians in that province.

From information furnished me from the German and French legations, both of which are in constant communication with the large number of their own missionaries in the neighborhoods mentioned, and from the tsungli yamen, which has frequent telegraphic reports, I have concluded either that much of the information contained in these letters was derived from exaggerated reports made by natives to our missionaries, or that the missionaries themselves were unnecessarily frightened, and as they had reported no special cases of damage or persecution not settled, I made only general requests upon the Chinese Government to preserve order, protect lives and property, and save further trouble.

But in the last letter of the missionaries they furnish the names of places, dates of attacks, and designate particularly the persons who were the principal ringleaders in each riot. I have therefore thought best to demand the arrest and punishment of these ringleaders, and did so in a note to the tsungli yamen on the 3d instant, a copy of which is inclosed.

I also inclose copies of previous correspondence with the tsungli yamen on the same subject.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Messrs. Killie, Faris, and Chalfant to Consul Fowler, Chefoo.*

I-CHOU-FU, November 29, 1898.

DEAR SIR: We, the three undersigned citizens of the United States, resident at the city of I-Chou-fu, in the province of Shantung, beg hereby to report to you the circumstances of a recent experience of ours in the extreme northeast corner of the county of Chu-chou and 280 li (3 to the mile) northeast of I-chou-fu.

There are at that point two preaching stations in connection with this mission, one called Lin Ts'un, in Chou-chou, and the other called Man T'ang Yu, 5 li east of Lin T'sun, in the county of Ji Chao. The line between the two countries runs north and south along the ridge separating the two villages. We have a small schoolhouse at each place, and work has been prosecuted there for about twelve years.

On the 8th of November we, the undersigned, left I-chou-fu to visit these stations, traveling thus in company for a special purpose connected with the discharge of our ordinary duties. On the way we met, successively, two committees of Christians from Man Tang Yu, the first of which reported that on the 24th of the Chinese ninth moon, i. e., November 7, our schoolhouse at that place had been robbed, the furniture being smashed and everything portable carried off, by a band of armed men from a village called Ho Chia Lon, locally known as Hsi Lou, 10 li southeast of Man Tang Yu, and consequently in the country of Ji Chao. The second party of messengers reported that on the following day, November 8, a larger force of armed men had come over from the same place, robbed several Christian families at Man

Tang Yu of all they had, and carried off our school-teacher as a hostage, shamefully abusing him. There has been for some time a feud between the two villages, which culminated last spring in the intimidation of the Christians by parties of violent men from Ho Chia Lou, the beating by them of our school-teacher at Lin Tsun, and several other minor outrages. Matters went to such a length that we were compelled to appeal last spring to the Ji Chao official, and succeeded in getting the case settled by the usual Chinese expedient of exacting a public feast from the offenders.

As to the merits of that case, it is perhaps sufficient to say that the Christians were probably not without fault. The Ho Chia Lou people were unquestionably the aggressors and used actual violence. Although this old grudge serves to explain the violence of the present attack, the real occasion of the attack itself is to be found in the wild rumors which are in circulation in that whole region to the effect that the foreigners have been driven out of Peking and that an edict has been issued authorizing the people to expel the foreigners and their adherents everywhere. In north Chu Chou and Ji Chao the German Catholics have many stations, and there has been for several years general complaint that many of the Catholic Christians use their connection with the foreigners to oppress their neighbors. Whether the accusations be true or false, they are at least generally believed; and when the report above described gained currency, people who had real or imaginary grievances against the Christians of both churches seized the opportunity to pay off old scores, and were eagerly seconded by the mass of the ignorant and excitable populace. Trouble similar to that of Man Tang Yu broke out simultaneously at a large number of Catholic stations.

Unconscious of the extent of the antiforeign movement, and supposing that we had to deal only with a rather serious case of local persecution, we sent back word to I-chou-fu that a request should be sent to the Ji Chao official by way of the prefect's yamen to investigate the case.

We then pressed on to Lin Ts'un. When we were only 6 or 8 miles from our destination, we learned that our schoolhouse at Man Tang Yu, which had, as stated, been robbed on November 7, had been burned on the night of November 10, presumably by the same persons who had robbed it. We were told, moreover, that a German priest had been attacked and wounded, and was held a prisoner at a place called Chiai Tou, 70 li southeast of Lin Ts'un and only 35 li from Ji Chao city.

There being no stopping place in the sparsely settled hill country in which we were, we decided to proceed to Lin Ts'un, where we arrived at dark on Saturday, November 12.

We had hardly reached there when we were told that the people of Ho Chia Lou had announced their intention of coming over that night to rob the Christians of Lin Ts'un as they had done those of Man Tang Yu. We called in the village elder and requested him to prepare for the attack as best he could. A watch was set on the street, but no attack was made. Early next morning we sent back word to Chu Chou city, 90 li distant, and to I-chou-fu, for assistance, knowing that retreat without some settlement of the trouble would result in the robbery of the Christians, if not in worse.

As the day wore on it became evident that the situation was serious. A band of armed men numbering about 200 advanced from Ho Chia Lou to the ridge overlooking Lin Ts'un. Their representatives were indeed willing to talk of a compromise, but they plainly hinted that our failure to accept their terms would be followed by an armed attack upon us. We gathered from what they said that the Christians had been, in several matters, more or less in the wrong, but, as we pointed out to them, mob violence was not the proper way to seek redress even if their alleged grievances were real. We tried to impress upon them the absurdity of the reports, upon the ground of which they had so rashly resorted to violence. Fortunately one of our number, Mr. Killie, had his passports with him, stamped by the tsungli yamen, on September 25, which was unimpeachable evidence that six weeks previously the treaty rights of foreigners were recognized at Peking.

This document had considerable influence in checking their warlike ardor. We said that we demanded only that they should restore the stolen property and rebuild the schoolhouse. At 5 p. m. on the same day (November 13) came the ti fang, or local policeman of the district, who reassured us and went out to persuade the rioters to return to their village. The next day was passed in alternate alarms and fruitless negotiations. At dark a lao tsung or constable arrived from Chu Chou with a horse and two men. He said that his master, the Chu Chou official, desired us to leave Lin Ts'un at once, but we pointed out that under the circumstances it was an impossibility. Even if we were not ourselves waylaid on the road, the Christians would certainly suffer should we depart without a settlement of the case.

On the morning of the 15th, a little after 11 o'clock, we heard the report of a gun on the hill east of us, and were told that the rioters were returning in force to bring

us to their terms. Some of the Christians brought in clubs and other primitive weapons, but we refused them and instructed our friends not to fight at all. We then sent for the Chu Chou lao tsang and the middlemen in the negotiation, and demanded why we were threatened with violence when in the midst of amicable negotiations. We informed them that we were not to be intimidated into an unjust or disgraceful settlement. At 3 p. m. a prominent Christian, the father of the young school-teacher who was in the hands of the rioters, ventured out to obtain news of his son, and was seized, bound, and a knife was pressed against his throat. He was released upon condition that he should urge us to pay over the value of \$200 Mexican, to secure our safety. Toward evening we learned that we were threatened from a new quarter. Gangs of ruffians, heavily armed, were coming down from south Chu Ch'eng to join the main body of the rioters at Chiaï T'ên, where the German priest had been attacked and where it was said that the standard of rebellion was already raised. A scout brought in word that 60 or 70 of these desperate men were in a ravine north of our village with the avowed purpose of attacking us. Just as we were sitting down to supper, an alarm was raised that the robbers were upon us. We were hurried by our friends to a room which could be more easily defended. The whole village was now aroused, and arms of all sorts were produced. We told them that while we were opposed to meeting their riotous neighbors with armed resistance, we considered it perfectly right to defend ourselves against regular robbers and that we proposed to do so, although we only had one small revolver among us. At 10 o'clock we were much relieved by the arrival of a lieutenant with 20 soldiers, including 5 cavalry, from Chu Chou. Reports of guns were heard in the night, but no attack was made by the robbers. On the morning of the 16th we learned that a deputy from the Ji Chao official had arrived at a point 20 li east of us and had appointed several of the most influential and wealthy men in that neighborhood to try to bring the rioters to terms with us. At 10.40 a. m. the Chu Chou official himself, Tsiang Chieh, put in his appearance, and at once called upon us. He desired us to leave immediately, and we expressed our readiness to do so as soon as the negotiations came to a satisfactory conclusion. Owing partly to our access of force and partly to the fact that our original enemies were themselves beginning to fear robbery at the hands of their villainous allies from the north, the Ho Chia Lou people, at least through the committee last named, signified their readiness to accept our terms. That evening they signed a paper promising to restore the goods they had stolen from the Christians and from the schoolhouse, and to rebuild the schoolhouse itself. It was further stipulated that they and the Christians should henceforth not molest each other. By this time the village was full of idlers and ruffians from 10 miles around, and the official told us privately that he considered the case to be very serious. However, after another anxious night we left the place under military escort, followed by the official himself, who soon passed our barrows and hurried back to Chu Chou. As we passed along with our escort, the road was lined at every village with men, women, and children, who watched us pass in sullen silence, very different from the ordinary curiosity with which we are familiar. On Friday, the 18th, at noon we reached the city of Chu Chou, where Mr. Tuang immediately called upon us at our inn. We returned the call. The people on the street were nearly as quiet as usual, and indeed south of Chu Chou city we noticed little excitement. In response to the suggestion, Mr. Tsiang said that he had already issued stringent proclamations to be posted in the disaffected districts. We were furnished by him with four soldiers and left at once for I-chou-fu, 18 li south of the city, where we spent the night. We were met by the prefect of I-chou-fu, Ting Ch'eng. He was absent from the city on his way to Yen Chou-fu when word of the trouble in Ji Chao overtook him. He returned, and 10 li east of the city, en route for Ji Chao to investigate the case of the seizure of the German priest, he was overtaken by an urgent message from the ladies of our mission, and hastening back to the city made a fresh start for Chu Chou to succor us. He traveled the 180 li between I-chou-fu and Chu Chou city in one day. After hearing our story he went on to Chu-chou and thence to Ji Chao. He insisted upon adding three soldiers to our escort. We reached Ji Chao without further incident on November 20.

In reference to the incident related above we have the following remarks to make:

1. It is clearly not an isolated case, but one of several simultaneous occurrences, showing a widespread and violent antiforeign feeling.
2. The present outbreak is directly connected with the "coup d'état" at Peking. The people are led to suppose that the reaction against the reform movement, of which they have vaguely heard, involves the expulsion of the foreigners.
3. Vigorous measures must at once be taken in the way of stringent instructions to local officials, and plain-spoken proclamations, backed up by the necessary force, if this antiforeign feeling is to be subdued before worse things happen.
4. We have no complaint to make of the civil authorities with whom we have had

to deal. The Prefect Ting Ch'eng and the hsien or county official of I-chou-fu, Chen Kung Liang, certainly did all in their power to answer the appeal of the ladies for help.

The action of the Chu Chou official, as related above, was prompt and effective. The prefect for six days traveled literally day and night.

None of these named were responsible for the trouble, and they made every exertion to rescue us and the German priest. It would be a great injustice if they were made to suffer in the premises.

5. We can not say as much for the military authorities of I-chou-fu. The hsieh tai, or resident colonel in command of the regular troops of the prefecture, is a Mahomedan named Li Ying. When the ladies appealed to him he refused to do anything, on the absurd ground that the country of Ji Chao is the territory of his subordinate, the tu ssu, commandant of Ngan Tung Wei, on the seacoast. Colonel Li has, it is true, very few soldiers under his command, but that lack is in itself a just cause of complaint, and besides he did not use any of the few men he has, as he might well have done. Still more culpable is the case of Brig. Gen. Tai Shou Li, who was sent down from Chinan-fu in the spring under pressure from you, as he has himself admitted, for the express purpose of protecting the foreigner. He is supposed to command a liang (500) of troops, but at present has here in the city only about 80 or 100 men. When the ladies appealed to him on this occasion for soldiers to go to our rescue he said that he could not comply without an order from the governor. In response to this we have simply to say that if it be true that every time an emergency arises he must wait for orders from Chinan-fu, 640 li away, he is not of much use here, and the sooner he gets the necessary authority the better for the foreigner.

6. If the Ho Chia Lou people carry out their promise to make full restitution for the damage done by them, we are not disposed to prosecute them for their flagrant lawlessness. The prefect informs us that he has given orders that the ringleaders be arrested. That would probably be a wise step, if only to bring home to them the gravity of their crime. We should feel disposed, however, in view of our compact made with them, to intercede with the authorities for them at the proper time.

7. We agreed to a settlement upon the basis of their simply making good the damage, because: (1) Although we were ourselves placed by them in undoubted peril of our property, if not of our lives, we were not actually attacked; (2) we recognize the fact that the people of Ho Chia Lou, while inexcusably in the wrong themselves, had a certain amount of real grievance against some of our Christians, which, while not enough to justify their resort to lawless violence, must still be taken into the account in judging their conduct.

CHARLES A. KILLIE.  
WALLACE S. FARIS.  
WILLIAM P. CHALFANT.

[Inclosure 2.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, December 20, 1898.*

In reference to the antiforeign sentiment in the province of Shantung and the general annoyance it is causing the missionaries and native Christians therein residing, and in order that your highness and your excellencies may be more fully advised as to the real situation, the undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to transmit herewith, without comment or suggestion, a copy of a statement made by Charles A. Killie, William S. Faris, and William P. Chalfant, three American missionaries, detailing a very serious experience which they recently had in the north of that province.

The undersigned avails, etc.,

E. H. CONGER.

[Inclosure 3.]

*The Tsungli Yamen to Mr. Conger.*

No. 46.]

PEKIN, December 20, 1898.

YOUR EXCELLENCY: We have the honor to inform your excellency that on the 16th instant this yamen received the following communication from the viceroy at Shantung:

"The dispatch (from the yamen) is fully understood. The unfriendly feelings between Christians and natives has existed for some time. Although my subordi-



nates have been instructed to exhort them, it is difficult to make all understand. Having received instructions to issue proclamations, I have acted accordingly. But in order that the Christians and people may mutually be at peace, the local authorities must instruct them, and the missionaries should restrain the native Christians. In this way there will be mutual harmony, etc."

As in duty bound, we send this note for your excellency's information and inclose a copy of the proclamation issued by the viceroy of Shantung.

Cards of ministers with compliments.

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[Subinclosure.]

*Translation of a proclamation issued by the viceroy of Shantung.*

A proclamation issued in accordance with an imperial decree by the Empress Dowager, dated 21st day, 8th moon, 24th year of Kuang Hsü (October 6, 1898), as follows: "Ever since foreign nations have had commercial relations with China there has been no difference in their treatment. The local officials have been repeatedly instructed to protect all missionaries in China. Both officials and gentry in all the provinces should respect the desire of the court to treat all alike. They should exhibit sincerity and honesty and be without doubt and suspicion, in order that there may be continual and mutual peace, etc."

Again, on the 3d day of the 10th moon, the following decree was issued by the Empress Dowager: "The customs and government orders of Western nations are different from those of China. Although these differences exist, yet the adoption of Western methods in military affairs, agriculture, and commerce have proved really beneficial. Therefore, if what is good is selected and carried out in order, the benefits will increase daily, etc."

Western people have come from afar and across many oceans to China for the special purpose of exhorting people to do right. Therefore they should be protected, according to treaty, in order that friendly relations may be preserved. Moreover, it is to be feared that ignorant and foolish persons will make false conjectures which will prove misleading. They surely do not bear in mind that the Empress Dowager is at all times earnestly striving to prosper her country, and so she is kind to the people from distant lands, and her treatment of foreigners and Chinese is the same.

The people and missionaries of this province have lived together amicably for a long time. The saying "do not forget to entertain strangers" should be considered, and more than this, strangers should be treated with great courtesy. Moreover, Christians and natives who live in the same village and drink from the same well are friends. Who, with heaven over their head and earth beneath their feet are not the sons of the court? How much more even should they be mutual friends and not cherish any enmity or suspicion!

In addition to instructing the local authorities to exhort the people, proclamations have been issued for their enlightenment.

This proclamation has been issued for the purpose that all the soldiers and people of this province may understand that hereafter they must obey the decrees which have frequently been promulgated in order that the missionaries and native Christians may all be treated as friends. Moreover, if any dare disobey and spread rumors and cause trouble by inciting the populace, they must be immediately apprehended and severely punished, and will not be shown any leniency. Beware!

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[Inclosure 4.]

*The Tsungli Yamen to Mr. Conger.*

No. 50.]

PEKIN, December 25, 1898.

YOUR EXCELLENCY: We beg to reply to your excellency with reference to the missionary trouble in Shantung, which you brought to the notice of this yamen in a personal interview this morning. Acknowledging the very friendly feelings of your excellency, we have already wired the governor of Shantung, instructing him to immediately send soldiers to repress and to render satisfactory protection.

As in duty bound, we send this note for your information.

Cards of ministers with compliments.

[Inclosure 5.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, December 27, 1898.*

In reference to the outbreak in Shantung, the undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, hastens to place in the hands of your highness and your excellencies a telegram this moment received from the United States consul at Chefoo, as follows:

"Governor wires that he has ordered officials send troops, but they will not be able to regain control; urge yamen to wire governor to send largest force possible immediately."

The above indicates that the outbreak is extensive and the danger imminent. The undersigned therefore requests that your highness and your excellencies will, if not already done, ascertain by quick telegraph the real situation, and take such further certain and effective measures as will surely repress the disturbances and insure the protection of life and property.

He will also thank your highness and your excellencies for any information you may have concerning the actual situation, and that you will further notify him as soon as the outbreak is suppressed and danger passed.

The undersigned avails, etc.,

E. H. CONGER.

[Inclosure 6.]

*William P. Chalfant and others to Consul Fowler, Chefoo.*I-CHOU-FU, *December 26, 1898.*

SIR: On the 22d instant we sent you a telegram, via Tai Erh Chuang, in the following words:

"Northeast outbreak approaching I-Chou-fu; much destruction Catholic property; Two Catholics killed.

"Tsoa Chwans threatened. Ask Corbett prefect to Chinan-fu. Force expected inadequate regain control."

In explanation of this telegram we have to say that the state of affairs in the northeast has not improved since our letter of December 9 to you.

On the contrary, it has steadily grown worse. The riots against the Christians broke out farther and farther southward, up to the very gates of Chu Chou city. The Chu Chou official, Tsiang, the man who went to Lin Ts'un to rescue us, as related in our letter to you of November 29, went out to a point 20 lis east of that city to prevent the looting of a Catholic station. He was openly defied by the mob, who accused him of receiving money from the foreigners for espousing their cause, and compelled him to get out of his chair and abjectly swear that it was not so. So far, we know he has not dared to leave the city since. Up to this time no more of our stations have been actually attacked. One Christian family, 15 lis south of Chu Chou city, was threatened by a small mob, but the neighbors took their part, saying that they were innocent of offense, and the danger was, for the time, at least, averted. On December 21, however, word came that an attack, instigated by men from Li-Chao and Chu Chou, was threatened at two large stations of ours where we have organized churches and schools, viz, Pei Tsou Ch'nan and Nan Tsoa Ch'nan in the southern part of the country of I Swei, 70 lis southwest of Chu Chou and only a little over 100 lis from this city. One of our Christians there is a wealthy man, and the hope of spoils was added to the widespread antifeign feeling, as it is, indeed, in most of these cases. We made proper representations to our local magistrate, prefect having gone to Chinan to consult with the governor, and the magistrate (Chen Kung Liang) with commendable energy and in spite of the fact that the points threatened were not within his jurisdiction, sent up a force of 18 foot soldiers, 10 of whom he borrowed from the Chen Tai, Tai Shon Li. The alarming feature of the general situation is that the excitement is gradually moving southwestward. Besides this, antifeign placards have been posted 100 lis southeast of here, a copy of one of which we secured and handed to the local magistrate. In view of these facts we concluded to send to you our telegram of the 23d instant, above quoted. Since dispatching that message events have justified the precaution. The arrival of the 18 soldiers sent from here to the Tsoa Chwans, as above related, frustrated. On the morning of the 24th instant the small force referred to proceeded to the market town of Shing Mu Chung, 12 lis northeast of Pei Tsoa Chuan. It was market day. The report was circulated that the

soldiers were not genuine, but were hired mercenaries from the Tsoa Ch'uans. It was moreover asserted that their guns were not loaded, and it was suggested that their guns be taken from them. Their leader, a man named Wang from our magistrate's yamen, went out to parley with the malcontents and was seized. The soldiers made an attempt to rescue him and one of them fired his gun, wounding one of the mob. A riot followed, in which Sergeant Wang was beaten and one of the soldiers was badly wounded, and these two, with four other soldiers, carried off to a temple. The rest of the soldiers escaped to the Tsoa Ch'uans. The mob then proposed to attack the Tsoa Ch'uans, but a messenger who arrived says that when he left the threat had not been carried into execution. This result was partially due to the fear of the soldiers, partly to the publication of a good proclamation by the local magistrate of I Swei, and partly, we are glad to record, to the way in which the neighbors of our Christians rallied to their defense on the ground that they had never done anything to deserve such treatment. On the 25th instant we called upon the local officials, the prefect having returned from Chinan-fu. The prefect besought us not to be impatient, since he was doing all in his power. He refused to tell us how many troops the governor had promised him, but said that 100 cavalry were to be here shortly. We urged him to telegraph the governor for more assistance, but he replied that he was not authorized to address the governor by telegraph. We suggested that he consult with the military officials and arrange to concentrate their small forces and move directly to the center of the trouble, so as to arrest the ringleaders and bring them to this city. He would promise nothing except that he would make good "all losses" and mete out satisfactory punishment when excitement subsides. We pointed out that the excitement would hardly subside without vigorous measures to check it. He asserts that eight men have been arrested at Chu Chou and one beheaded. The local magistrate corroborated this statement, and it is probably true, for on the 19th instant a force of from 40 to 50 cavalry from Chinan-fu was seen by one of our people at a point 80 lis north of this city, moving in the direction of Chu Chou. It should be added that the attacks upon the Christians are of a most vindictive character. Two Catholics have been killed and a large number injured. It is a common thing for the rioters literally to tear down the houses of their victims. One of our Christians at Man Tang Yu, an inoffensive old woman, was partially divested of her clothing and was hung up to a beam to make her surrender the deeds of the family homestead, they having been already robbed of everything else they possess. In a walled village 20 lis north of Chu Chou city a number of Catholics, together with 30 soldiers sent from here to protect them, were being besieged at last accounts by a body of rioters a thousand strong. The affair has not yet assumed the proportions of an organized rebellion, but it is rapidly drifting in that direction. Christians who live within 40 lis of the city say that it is the common talk among the bad element that they will proceed to rob them if the attempt at the Tsoa Ch'uans is unsuccessful. It is our opinion that the disturbance can not be quelled without a considerable increase of military force. This is especially urgent in view of the approach of the new-year festivities, when rowdiness is apt to be rampant even under favorable conditions. We would further suggest that steps be taken to locate a permanent camp at this place for the following reasons:

1. The present outbreak shows conclusively that the military force in this prefecture is not adequate properly to police the territory.
2. The country south of us is in a constant state of disturbance, owing to the local banditti who go and come over the border lines between Shantung and Kiang su.
3. There is now a state of famine in northern Kiang su and lawless outbreaks are occurring there and in the extreme southern part of this province.
4. It is quite likely that some of the German syndicates who are visiting our city from time to time may attempt to buy lands and open mines here in the spring, a proceeding which, however commendable in itself, is almost sure to give rise to local disturbances. Trusting that you may be able to bring such pressure to bear as shall secure us the peaceful protection of our work,

We are, yours, respectfully,

WILLIAM P. CHALFANT.  
CHARLES A. KILLIE.  
WALLACE S. FARIS.

[Inclosure 7.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, December 26, 1898.*

Referring to the outbreak near Ichou-fu, in the province of Shantung, and the threatened danger to American life and property thereby, which was the occasion of

his personal visit to the tsungli yamen yesterday morning, the undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge receipt of the note of your highness and your excellencies of the 25th instant informing him that the telegraphic instructions had at once been sent to the governor of Shantung to immediately send soldiers to repress the outbreak and render satisfactory protection.

Thanking your highness and your excellencies for your prompt attention to the matter, and trusting that the measures taken may prove efficacious, the undersigned improves the occasion, etc.,

E. H. CONGER.

[Inclosure 8.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, December 28, 1898.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your note in reference to the outbreak in Shantung.

You therein say that you have just received a telegram from the United States consul at Chefoo, which is as follows:

"Governor wires that he has ordered officials send troops, but they will not be able to regain control. Urge yamen to wire governor to send largest force possible immediately."

Your excellency therefore requests that we will ascertain by quick telegraph the real situation, etc.

The yamen has wired the governor of Shantung, with orders that he must in good earnest afford protection, and in addition we send this communication for your excellency's information.

Cards of ministers with compliments.

[Inclosure 9.]

*Mr. Chalfant and others to Consul Fowler, Chefoo.*

I-CHOU-FU, January 9, 1899.

SIR: On December 26 last we dispatched a letter to you describing the progress of the antifeoreign outbreak in this prefecture. Before proceeding to outline the present situation we desire to thank you most heartily for the prompt and effective manner in which you responded to our appeal for assistance. Your telegraphic reply to our telegram of December 22 reached us on the evening of the 29th. At 1 o'clock on the following morning came the governor's orders to protect the foreigners and to punish the rioters. It appeared that in the course of the transmission of our message the inference had somewhere been drawn from its wording that the two German priests had been murdered. The term "two Catholics" referred to native Christians. The man who was shot by the soldiers at Sheng Mu Chung, as related in our letter of December 26, subsequently died. The six soldiers who were detained by the mob were accused of murder and were sent in chains to the I Swei magistrate for trial. The accusation also mentioned one of our prominent Christians as a naccomplice, although he was not present and had nothing to do with the affair. On the basis of this malicious and palpably false charge the I Swei magistrate actually issued a warrant for the arrest of our Christian, thus confirming the people in their belief that the officials favor the antifeoreign movement.

As soon as we learned of this we sent to the prefect demanding that the name of the Christian be removed from the accusation and pointing out that the soldiers were simply doing their duty and should not have been arrested at all. Our request was complied with, but at last account the soldiers were still in custody. On December 25 and 26 our station at Hsi Ch'yu, 55 li northwest of I Swei city, was looted. The Christians were stripped of everything they possessed, and their very door posts were carried off. On the 29th or 30th the I Swei magistrate went in person to the spot and arrested ten or more persons. Only one of these was a ringleader, and he was released in a few days at the request of the influential friends and was, at last accounts, at large in I Swei city, boasting of his murderous designs against the Christians, and this in spite of the fact that the city was full of Chinan-fu cavalry. Under these circumstances it is not strange that a few days later, on January 3, an exceptionally inoffensive but isolated family living at Shwang Miao, 40 li northwest of Hsi

Ch'ang Yu, was robbed of its all by a band of men who were not recognized. On December 29 the trouble broke out in this country, Lan Shan Hsien at Hsiao Tai Ping, only 40 li northeast of this city. A Christian was robbed of 300 catties of peanuts and some clothing. It was done unquestionably to ascertain the temper of our local official, Chen Kung Liang. We informed him of the occurrence, and he promptly sent out forty men and arrested four of the ringleaders. Three of them were severely beaten, one so badly that he died from the effects of his punishment. This, to us, shocking procedure had the effect of bringing in the head men of the village in the locality affected, who repaid the loss of the Christian, and entered into a written agreement to prevent the repetition of such outrages. At the same time representatives of the region southeast of here, where the anti-foreign placards, referred to in our last letter, were posted, came up to say that such a thing should not be again permitted. The whole incident goes to show that this movement can be repressed if taken in time and sternly dealt with. On January 3, when we called upon the prefect to demand that our Christian's name be taken off the murder indictment above referred to, we also called the prefect's attention to the fact that not one of the men in Ji Chao had been arrested though they have been engaged for the past two months in robbing the Christians at Man Fang Yu, have looted and burned our schoolhouse there, and as before related, for several days threatened three of us foreigners with armed violence. We represented, moreover, that no one had been arrested at Liu Tsun in Chu Chou, where our Christians have been robbed by their neighbors. The prefect issued what purported to be stringent orders to the Ji Chao and Chu Chou magistrate to arrest the ringleaders at the places above specified. We took the precaution to send private messengers to ascertain whether these orders had been carried into effect. This evening the messengers returned. At Sin Tsun not only had no one been arrested, but most of the remaining property of the Christians has been stolen. Ji Chao city is full of cavalry, but no move has been made to arrest the culprits at Ho Chia Lon. The only remaining Christian family at Man Tang Yu has been robbed. The German Catholic station of Tu Shan near Ji Chao city, where a foreign priest usually resides has been looted and dismantled. The mob began operations within ten minutes after the Ji Chao magistrate left the place. The sergeant who came from Ngan Tung Wei with soldiers to suppress the riot was brought before the leaders of the affair and explained that he simply came to see that no outsiders were interfered with. As for the Christians, it was lawful to rob them.

All the Catholic Christians over there have fled to Tsin tan or are in hiding. The firing of guns is heard on every hand, and an active muster of the malcontents is in progress. They propose to "fight the foreigners, who are formidable, it is true, on the sea, but do not dare to land from their ships." Seventy li east of this city there is talk of raising the flag of rebellion. The origin of the whole trouble was in Ji Chao and south Chu Ch'eng. The gentry of Chao city are said to be the leaders in the movement there. In view of these circumstances we thought it advisable to send you this evening the following telegram:

"Cavalry at Chu Chou Ji Chao fortnight, no arrests. Ji Chao verge antifeoreign rebellion. Gentry leading. Two north I Swei stations mobbed. Few arrests. Ringleader released. Prefect half-hearted orders disregarded. Magistrate protects. Messenger awaits answer."

The conviction is being forced upon us that some of the local officials are not in earnest in their attempts to quell this uprising. There are even indications that it may have been preconcerted to a certain extent. For example, we have learned on good authority that I Swei Magistrate Tung remarked some time before the beginning of the trouble that "the members of the foreign church would suffer this winter." Our prefect, Ting Cheng, is either personally unwilling to punish the rioters or is hampered by his orders from Chinan-fu. A Tung Ling, Li Fu Yun has reached I Swei from T'ai Ugan fu with 150 cavalry. In response to a friendly message from him we sent him the names of the leaders in the various riots in the hope that he may be able to take some independent action. In view of the facts that as matters stand it is impossible to get justice done by ordinary methods in the countries of Ji Chao, Chu Chou, and I Swei, we beg to submit to you herewith a list of the names of the principal ringleaders who have conducted riots against our stations in the counties specified, and we hereby request you to take such steps as you may think proper to secure their arrest and punishment. Not until these men are punished will it be possible for us to continue our work at those places. The matter of compensation to the Christians for losses can then be attended to. It should be added that according to reports the antifeoreign agitators have entered the county of Ming Yin with the avowed purpose of stirring up trouble there, and so on to Tai Ngan fu and Chining Chou.

We are, etc.,

CHARLES A. KILLIE.  
WILLIAM P. CHALFANT.  
WALLACE S. FARIS.

[Inclosure 10.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, January 12, 1899.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has just received from the United States consul at Chefoo the following alarming telegram:

"Ichow telegraphs cavalry useless. Antiforeign rebellion imminent. Gentry leading. Two north I Swei stations mobbed. Ringleaders released. Prefect's orders disregarded. Believe situation dangerous."

It would seem from the above that notwithstanding the instructions already sent to the governor of Shantung, that the outbreak is spreading, more outrages are being committed, and graver dangers threatened.

With the ample facilities for official telegraph communication which the Imperial Government possesses, the real situation can be immediately learned by it, and appreciating the responsibility of its treaty obligations, it should at once take adequate measures for safety and protection.

For the present, the undersigned can only act upon this general warning and demand that all necessary measures be taken. It is always much easier to avoid difficulties than to settle them afterwards.

However, the undersigned requests that your highness and your excellencies will at once inform him what the real situation is in the locality mentioned in the telegram, and what adequate measures have been taken by the Chinese Government to control it.

The undersigned avails, etc.

E. H. CONGER

[Inclosure 11.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, January 16, 1899.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your note, of recent date, stating that you had just received from the United States consul at Chefoo the following telegram:

"Ichow telegraphs cavalry useless. Antiforeign rebellion imminent. Two north I Swei stations mobbed. Believe situation dangerous," etc.

Your excellency, therefore, requested that adequate measures be taken for safety and protection, and that you be informed of the real situation and also what measures have been taken, etc.

In the personal interview with the yamen last month your excellency stated that you were in receipt of a telegram from the United States consul at Chefoo to the effect that at a place called Ts'ao Chuang, in Shantung, missionary property had been destroyed and missionaries severely injured. At that time this yamen telegraphed the governor of Shantung to make investigation and act accordingly. He was also instructed to send soldiers to repress the outbreak and render protection.

Subsequently we received a telegram from the governor of Shantung stating that he had ordered that a careful investigation be made by the Lan Shan magistrate, who, moreover, reported that there was no such trouble; but, on inquiring of a missionary, he was told that the disturbance was at a place called Tso Ch'üan Chuang, in the district of I Shui, which had been mistaken for Ts'ao Chuang, etc.

Again he ordered that an investigation be made by the I Shui Hsien magistrate, who reported that there is a Catholic mission at a place called Pei Tso Ch'üan Chuang. It was rumored that at Tso Ch'üan Chuang a native Christian, named Chang K'e Hsiang, a wealthy man of the village, fearing that some disturbance might arise, went to the missionary, Fu Wei Ssu, and spread false reports. The missionary made no investigation of the matter, and so it was telegraphed. The truth is that there was no such disturbance.

After the governor of Shantung received our telegram, he immediately ordered the Lan Shan Hsien and I Shui magistrates to thoroughly investigate the matter, and both reported that no such trouble existed. Therefore it is to be really believed.

This yamen has again sent instructions to the governor of Shantung to order his subordinates to render protection in good earnest, and in duty bound we send this reply for your excellency's information.

Cards of ministers, with compliments.

[Inclosure 12.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, February 3, 1899.*

Recalling the attention of your highness and your excellencies to the riots against the missionary stations in the districts of Chu Chou, Ji Chao, and I Swei, province of Shantung, which have resulted in outrageous persecutions of Christians and considerable destruction of mission property and to which this legation has several times referred with respectful requests that measures be taken by the Chinese Government to repress them, the undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, regrets to report that, notwithstanding the instructions issued by the tsungli yamen to the provincial officials, he is reliably informed that the rioting and persecutions still continue and will continue until the ringleaders are arrested and made to understand, by adequate punishment, that this thing must stop.

It has been agreed by treaty that the teachings of Christianity are good, both for foreigners and Chinese, and that all peaceably professing Christianity or conducting its work shall not be interfered with. Under these stipulations the Government of the United States has permitted its citizens to come to China and engage in this work, and it insists that their legitimate work shall not be interfered with by lawless persons.

The Government of China has demonstrated many times that these riotous persons can be controlled and this persecution be prevented if only stern and emphatic measures be employed.

Therefore the undersigned presents, on a separate sheet herewith, the names of the principal ringleaders who are known to have conducted recent riots against missionary stations at Liu Ts'un village, Chu Chou district; Man T'ang and Ho Chia Lou villages, Ji Chao district; and Sung Yuan Chwang and Hsi Kou Chuang villages, I Swei district, and demands their immediate arrest and severe punishment.

This is necessary in order that mission work may go on, mission property and lives be safe, and serious trouble and unpleasant complications be avoided.

The undersigned improves, etc.,

E. H. CONGER.

*Mr. Conger to Mr. Hay.*No. 148.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, February 18, 1899.*

SIR: Referring to my dispatch No. 142, of February 8 instant, in regard to the recent disturbances in the province of Shangtung, I have the honor to inclose to you copies of further correspondence had with the Chinese Government on the same subject.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, February 8, 1899.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your note wherein you refer to the riots against the missionary stations in the district of Chu Chou, Ji Chao, etc., in the prefecture of I Chou, province of Shantung, which have resulted in persecutions of Christians and destruction of mission property. You further state that you have several times requested that measures be taken by the Chinese Government to repress them, and that notwithstanding the instructions issued by this yamen to the provincial officials the rioting and persecution still continue and will continue until the ringleaders are arrested and punished. You inclose also, on a separate sheet, the names of the principal ringleaders, demanding their immediate arrest and punishment, etc.

This yamen has recently received a communication from the governor of Shantung,

stating that he has ascertained on investigation that the districts of Chu Chou, Jih Chao, etc., in the I Chou prefecture, are quiet and peaceful, and moreover that the local officials have afforded protection to all under their jurisdiction and that there is no trouble. However, having received the above information from your excellency, this yamen will immediately instruct the governor of Shantung to thoroughly investigate the matter. The people of Shantung are overbearing, and owing to the recent calamity (floods) are very easily excited, and it is to be feared that if they are restrained too much trouble will be stirred up similar to the uprising of the Yü Man-tzus in Szechuan, which would be difficult to control.

Your excellency must be fully acquainted with the circumstances of the situation.

On the 20th of December last we received your excellency's note referring to the antforeign sentiment in the province of Shantung and annoyance it was causing to both missionaries and native Christians. The governor wrote that the prefect and department magistrate had gone in person and made an investigation compelling those concerned to rebuild the mission property, to restore all the stolen things, and to sign an agreement, thus ending the matter.

Cards of ministers, with compliments.

[Inclosure 2.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, February 11, 1899.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note of your highness and your excellencies of the 8th instant, in which it is stated that in a recent communication to the tsungli yamen the governor of Shantung reports that all is peaceful and quiet in the district of Chu Chou, Ji Chao, etc., and that there is no trouble there. Notwithstanding this, the undersigned is informed by the missionaries that as late as January 23 no attempt had been made to arrest the rioters at Ho Chia Low, Nan T'ang Yu, and Liu Ts'un, although the officials acknowledge that orders have been given for their arrest, and that they, the ringleaders, are still defiant and insulting, and on yesterday they telegraphed that the magistrate at I Swei is even punishing soldiers for a death caused in their lawful attempt to repress the rioters. It is, therefore, apparent that orders to the governor simply "to investigate" is not sufficient, but he should be ordered to arrest and punish the ringleaders, whose names have been furnished, if order is to be restored and danger averted.

The undersigned notes the statement of your highness and your excellencies "that the people of Shantung are overbearing, and owing to the recent calamity (floods) are very excited, and it is to be feared that if they are restrained too much trouble will be stirred up similar to the uprising of the Yü Man-tzus in Szechuan, which was difficult to control," and would greatly deplore a repetition of the Yü Mantze trouble in Shantung, but he believes if the Government shows a strong hand there at once it need not happen. Nothing encourages wrongdoers and violaters of law anywhere as an exhibition of hesitancy or weakness on the part of the governing power.

However, as the final responsibility must rest upon the Chinese Government, the undersigned awaits with interest the result of the immediate investigation which the governor of Shantung has been ordered to make, and confidently expects that it will result in the prompt arrest and speedy punishment of the ringleaders as he has requested.

Requesting from your highness and your excellencies an early report of the result, the undersigned, etc.

E. H. CONGER.

*Mr. Conger to Mr. Hay.*

No. 181.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, March 30, 1899.*

SIR: I have the honor to inclose herewith copy of a note to-day received from Baron Heyking, the German minister here, and my reply thereto.



There has been frequent and increasing trouble in south Shantung for several months, as I have already reported, particularly in dispatch No. 142 of February 8.

The Germans, in consequence, a few days ago, sent off from the steamship *Gefion*, at An Tung-wei, a small patrol toward the interior to reconnoiter.

They were attacked by a large crowd of Chinese and driven back to their ship without harm to them, but it is claimed several Chinese were killed.

A few days after this, a German priest, not far from Kiao-chou, was captured and held prisoner by the Chinese.

This is understood to be the situation at the time, and the cause of sending the expedition mentioned in Baron Heyking's note.

I have telegraphed the information, through Consul Fowler, to the American missionaries at Ichoufu.

I have the, etc.,

E. H. CONGER.

[Inclosure 1.]

*Baron von Heyking to Mr. Conger.*

KAISERLICH DEUTSCHE GESANDTSCHAFT FÜR CHINA,  
*Pekin, March 21, 1899.*

MY DEAR COLLEAGUE: In consequence of the continuous and growing disturbances in the south of Shantung, causing grave dangers to missionaries as well as to engineers engaged at present on work in those parts, a military expedition has been sent yesterday from Tientsin (Kiautchow) on H. M. S. *Gefion* to Fichao for the purpose of enforcing order and peace.

I take great pleasure in informing your excellency that, according to instructions received from my Government, I have requested by telegraph the governor of Kiautchow to order the officer commanding the expedition to pay every attention to the American missionaries residing on those parts and to afford them protection if required.

I leave it to the consideration of your excellency whether it would perhaps be expedient to inform your missionaries in the prefecture of Itschowfu that the officer commanding our expedition has been instructed to give them protection should they wish it.

Believe me, etc.,

HEYKING.

[Inclosure 2.]

*Mr. Conger to Baron von Heyking.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, March 31, 1899.*

MY DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your kind note of this date, with the gratifying information that, owing to the continued growing disturbances in the south of Shantung, a German military expedition had been yesterday dispatched to Fichao for the purpose of enforcing order and peace, and that, complying with instructions from your excellency's Government you had requested the governor of Kiao-chow to instruct the commanding officer to pay every attention to the American missionaries residing in those parts and to afford them protection if required.

For this most courteous and friendly offer on the part of yourself and your Government, I beg you, my dear colleague, to accept the most generous expression of my appreciation and gratitude.

I have already telegraphed the information to the American missionaries at Ichowfu, for which they will undoubtedly be glad and grateful.

I shall immediately communicate the fact to my Government, in which I am sure it will find genuine pleasure.

With assurance, etc.,

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 151.]

DEPARTMENT OF STATE,  
*Washington, March 30, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 142, of the 8th ultimo, reporting a series of recent riotous incidents in the province of Shantung, culminating in attacks on the property of American missionaries and general interference with the work of foreign and native Christians in that province.

Your note to the tsungli yamen, demanding the arrest and punishment of the ringleaders in the riots, is approved by the Department.

I am, etc.,

JOHN HAY.

*Mr. Conger to Mr. Hay.*

No. 186.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, April 3, 1899.*

SIR: I have to confirm, on the overleaf, my telegram of the 2d instant, concerning the German military expedition invading the province of Shantung, and to revert to my dispatch of March 30 ultimo upon the same subject.

I have, etc.,

E. H. CONGER.

[Inclosure.—Telegram.]

*Mr. Conger to Mr. Hay.*

PEKIN, *April 2, 1899.*

German military expedition has been sent to interior of Shantung professedly to preserve order and to protect German missionaries and engineers, and have been instructed by German Government to protect Americans in case of necessity.

CONGER.

*Mr. Hay to Mr. Conger.*

No. 160.]

DEPARTMENT OF STATE,  
*Washington, April 7, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 148, of February 18 last, inclosing a copy of further correspondence between you and the tsungli yamen in relation to the recent disturbances in the province of Shantung.

Your note of February 11 to the tsungli yamen, urging vigorous action on the part of the Chinese Government with a view to the prompt arrest and speedy punishment of the ringleaders in the disturbances, is approved by the Department.

I am, etc.,

JOHN HAY.

*Mr. Conger to Mr. Hay.*

No. 191.]      LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, April 17, 1899.*

SIR: In continuation of my dispatches Nos. 181, March 30, and 186, April 3, I have the honor to report that the German minister, who has just returned from Kiaochou, informs me that one of the detachments of German soldiers, 125 strong, recently dispatched to the interior of Shantung marched to within about 15 miles of the city of Ichowfu, and there burned two small villages, the inhabitants of which had previously attacked a German lieutenant and engineer, as already reported.

This being the object of the expedition, and having been accomplished, the detachment returned to the coast.

The other detachment, 120 strong, marched to Jihchao, a town about 15 miles inland, where a short time before a German Catholic priest had been arrested, held a prisoner for some days, cruelly beaten, and otherwise seriously maltreated.

A demand has been made for the arrest and punishment of the offenders, including the officials and representative literati of the district. Pending compliance the town is being held, and the minister says that, if the demand is not soon complied with, a number of the literati and gentry will be seized, taken to Kiaochou, and held as hostages.

The American missionaries sent a request to the governor of Kiaochou to permit the troops to go on to Ichowfu and remain there for general protection; but the request reached him too late, as they had already returned to the coast.

I am quite sure that just now Germany would have been delighted to have marched the troops to Ichowfu at the request and for the protection of the Americans.

I apprehend the expedition will do much toward quelling the lawless spirit which has of late been so riotous in that locality, and will be a lesson to the Chinese which it is to be hoped they will not soon forget.

I have, etc.,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

No. 211.]      LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, June 5, 1899.*

SIR: In continuation of the subject of Shantung missionary troubles, detailed in my dispatch No. 148, of February 18 last, I have the honor to report that the local officials having wholly failed to carry out agreements already made with the missionaries for settlement, and no arrests or punishments having yet been made as requested of the tsungli yamen, I called again on the 31st ultimo, and demanded that some effective action should be immediately taken, and that nothing less than the arrest and punishment of at least five of the chief ringleaders, and a settlement of the losses through Mr. Chalfant, of I-chou-fu, would be satisfactory or accepted.

This the tsungli yamen finally agreed should be done, and they promised to write at once to the governor instructing him to order a settlement of the cases in accordance with my demands.

I left with them a memorandum setting forth what was required, and have to-day received a note from them saying the governor has been so instructed. Copies of both are inclosed. I also inclose memoranda of the interview as written out by the interpreter (Mr. Cheshire) immediately on our return.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Memorandum left by Mr. Conger at the Tsungli Yamen, May 31, 1899.*

Regarding the riots against Christians at the stations in Jih chao, Chu chou, and I Shui Hsien, the yamen, in its communication of February 8 last, stated that the governor of Shantung wrote that the prefect and the department magistrate had gone in person and made an investigation, compelling Mr. Ho and others to rebuild the missionary property, restore all the stolen things, and to sign an agreement and thus end the matter.

Yesterday the Rev. Mr. Killie, who has been stationed at I chou Fu, and is now in Peking, came to see me and explained the situation of affairs in that prefecture. He states that nothing whatever had been done up to the time he left I chou Fu by the officials to settle the cases at Jih chao, Chu Chou, and I shui, that the ringleaders have never been arrested and they still threaten the Christians, many of whom are afraid to return to their homes. Unless the ringleaders are arrested, punished, and made to give a bond for their future good behavior, matters will grow from bad to worse.

The names of these men I presented to the yamen some time ago, but I hand you another herewith, and I must strenuously insist that telegraphic instructions be sent at once to Shantung to have them arrested and punished, and orders be issued to settle forthwith the cases pending with the Rev. Mr. Chalfant, resident at I chou Fu. I believe that all the cases at Liu Tsun and Man Tang Yu, etc., where a chapel was destroyed and property of Christians plundered, can be settled by the prefect of I chou being instructed to confer with Rev. Mr. Chalfant, but the most important thing to be done is the arrest of the ringleaders.

I am of the opinion that your excellencies desire is, equally with myself, that peace and good order should prevail and no further trouble occur at the places named, thus avoiding endless correspondence on the subject. But if the ringleaders are not arrested and punished all efforts to avoid further trouble will be in vain.

[Inclosure 2.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, June 4, 1899.

YOUR EXCELLENCY: Yesterday your excellency called at the yamen and had an interview with us. You left a memorandum concerning the missionary cases that occurred in the prefecture of I chou. Your excellency requested that a dispatch be sent to the governor of Shantung to order the pending cases to be settled immediately by the prefect with the Rev. Mr. Chalfant, resident at I chou Fu, etc.

In reply we beg to inform your excellency that the yamen at once transmitted your memorandum to the governor of Shantung for his information, with directions, in accordance with its terms, to instruct the prefect of I chou to immediately take up and examine the cases and deal with them.

On receipt of the governor's report we will inform your excellency thereof, and in the meantime send this note for your information.

[Inclosure 3.]

*Memorandum of an interview between Mr. Conger, United States minister, and the ministers of the tsungli yamen, on May 31, 1899.*

There were present Hsu Yung-i, Hsu Chingchen, Yuan Chang, Yu Kang, and Lien fang.

Mr. Conger said he had called on the ministers for the purpose of again bringing to their attention the missionary cases that occurred in Chu chou, Jih chao, and I Shui in Shantung, still remaining unsettled, and which were first brought to the notice of the yamen in November last. Several communications had passed between the United States legation and the yamen, but nothing had been accomplished, the yamen repeatedly stating that the governor of Shantung had been instructed to take action to cause the arrest of the ringleaders and indemnify the missionaries and Christians for the losses sustained, but this proved of no avail; the cases remained at the present time in exactly the same position as when they were first brought to the attention of the yamen. What he now wanted was definite instructions sent to the Shantung governor to have the cases at once settled and the ringleaders punished. As a result of the inaction of the officials, the condition of affairs in the district named had grown from bad to worse. Riots had continued to occur; the trouble with the Germans may be put down to the fact that the present cases had not been properly dealt with by the officials.

Mr. Hsu Yang-i, who was spokesman for the yamen, stated that there was a good deal of feeling of unrest among the people of Shantung owing to the floods, but this Mr. Conger thought could have no bearing on the cases in question. They occurred many miles from the flooded districts and this was no proper excuse to offer why the matter had not been properly dealt with a long time ago. He again insisted that the ringleaders should be arrested and punished. Their names were well known to the yamen, as a list of them was sent to the yamen, but he now left with the ministers another list.

Hsu Yung-i said that the list embraced a good many names. To this Mr. Conger replied he would be satisfied if the five chief rioters, whose names headed the list, were arrested and punished; he would not insist on the punishment of the others. Again Mr. Conger reiterated that the men must be punished, else there would be no security for the future; that the governor of Shantung should be instructed to see to this. The cases could be settled by the I-chou prefect in consultation with Rev. Mr. Chalfant, who resided in I-chou-Fu, and who knew all about them. Instructions to that effect should be sent to Shantung.

It was agreed by Mr. Hsu Yung-i that the yamen would write to the governor of Shantung instructing him to have five of the ringleaders arrested and punished and to have the cases settled in accordance with Mr. Conger's request.

A memorandum of what was wanted was left at the yamen and the ministers promised to write to Mr. Conger stating what had been sent by the yamen to the governor of Shantung.

Mr. Hsu said that the yamen would write instead of telegraphing to the governor, as more could be given in detail by note.

It was pointed out by Mr. Conger that no nation was on a more friendly footing with China than the United States; that he had reported these cases to the State Department and his instructions were that they must be settled. The treaties provided that missionaries should be protected in their work, but they had not been carried out in the instances referred to.

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*Mr. Hay to Mr. Conger.*

No. 196.]

DEPARTMENT OF STATE,  
Washington, July 28, 1899.

SIR: I have to acknowledge the receipt of your dispatch No. 211, of the 5th ultimo, reporting your correspondence and interview with the tsungli yamen in relation to the disturbances near I-Chou-fu, in the province of Shantung, and to the complaint of W. P. Chalfant.

It is confidently hoped that arrangement reported by you for the

settlement of the claims of the missionaries and for the prevention of further annoyance to them and their converts will be satisfactorily carried out.

I am, etc.,

JOHN HAY.

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*Mr. Conger to Mr. Hay.*

No. 232.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 12, 1899.*

SIR: In continuance of my dispatch No. 211, of June 5 last, concerning the missionary troubles in the I-chou-fu prefecture, province of Shantung, I inclose herewith copies of additional correspondence upon the subject, and have the honor, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Revs. Chalfant and Johnson to Consul Fowler, Chefoo.*

ICHOU-FU, May (June) 5, 1899.

SIR: We beg to acknowledge the receipt of your communications No. 1175 and No. 1224, with inclosures. We have also received your No. 1206, and shall send the desired statistics as soon as possible. We are glad to note that you continue to appreciate the importance of securing promptly a settlement of the antifeign and anti-Christian riot cases now pending in this prefecture.

Our prefect has returned from Chinan-fu, and it is said that he brings stringent orders to settle all the "church cases, both Catholic and Protestant." Simultaneously with his arrival came the taotai of Yenchou-fu and Bishop Anzer, who proceeded to T'an Ch'eng, whence they returned in a few days and went to Ji Chao. It is reported that the Catholic cases in this county (Lan Shan Hsien) have been settled by the payment to the victims of the sum of \$5,000,000 large cash. It is also reported that a settlement is in sight in T'an Ch'eng. In the latter county, however, several Catholics who had returned to their homes under official protection for the purpose of harvesting their wheat were attacked only a few days since and two or three of them killed. Three of our Christians went back last week to their homes in Liu Ts'un and Man T'ang Yu to cut their wheat. The two Man T'ang Yu men returned yesterday, reporting that they were again driven from their homes by an armed band of men composed of the younger members of the families of Ho Wen Chih and the other ringleaders at Ho Chia Lou, whose arrest was long since demanded by Minister Conger, but who are living at their homes without molestation.

The German soldiers have left Ji Chao and gone back to Tsintau, taking with them, if reports are true, several of the leading gentry of Ji Chao as hostages. We do not know what settlement, if any, was effected.

Our Christians who were driven back from Man T'ang Yu, as above related, state that the Catholic Christians have been allowed to return to their homes and are reaping their wheat in peace.

No steps have been taken to settle any of the Protestant cases. We beg leave to submit, without comment, the above statement of the present situation.

We are, etc.,

W. P. CHALFANT,  
CHAS. F. JOHNSON.

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[Inclosure 2.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, June 27, 1899.*

Referring again to the cases of persecution of Christians in the Ichou-fu district, in Shantung, concerning which we have had so much correspondence, and which, in

our last interview upon the subject, your highness and your excellencies promised that immediate instructions should be sent to the governor to cause the arrest and punishment of the chief five of the ringleaders, whose names were furnished, and a satisfactory settlement made with Rev. Mr. Chalfant, which instructions your highness and your excellencies wrote me had been sent, I now have the honor to report that I am to-day in receipt of information from Mr. Chalfant that nothing whatever has been done, but the Protestant Christians are still kept away from their homes, and some, when they tried recently to return and harvest their wheat, were again driven away by the members of the families of the very ringleaders who had persecuted them before and whose arrests you have promised me.

In the same district some Catholic Christians have been permitted to return to their homes and harvest their wheat in peace, and it is reported that the Catholic cases are being satisfactorily settled.

At our extended interview upon the question, because your highness and your excellencies insisted that you could more satisfactorily explain the details of the case and give more explicit instructions by letter than by telegraph, I frankly agreed that the instructions should be sent by letter instead of by telegraph. But now that sufficient time has elapsed for your detailed and explicit instructions to have reached the governor of Shantung, and because the situation is rapidly growing worse, I must insist that immediate telegraphic orders to the governor be sent to execute the instructions which, according to the agreement made at our interview, you informed me you had written him.

This case has been dragging along for many months, and the situation is rapidly becoming unbearable, both to the missionaries and native Christians. Further delay is simply trifling with an important question and a Government which has a right to expect and require better treatment.

I will therefore thank your highness and your excellencies for the earliest possible reply to this note, informing me whether or not the necessary telegraphic instructions have been sent.

Improving the opportunity to reiterate, etc.,

E. H. CONGER.

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[Inclosure 3.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, June 30, 1899.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note of the 27th instant in the matter of the persecution of Christians in the prefecture of Ichou, in Shantung, that nothing whatever has been done toward bringing the case to a close, and your excellency requested the earliest possible reply to your note, etc.

With regard to this case, the yamen a long time ago addressed the governor of Shantung, requesting him to cause an investigation to be made and action taken in the premises.

On the 31st May your excellency called at the yamen and requested that the Shantung governor be communicated with at once and that he be requested to instruct the prefect of Ichou to lose no time in settling the case with Rev. Mr. Chalfant; that he is to arrest and punish the ringleaders; that the chapel destroyed is to be rebuilt and indemnity paid for the articles stolen, and thus bring the whole case to a close, etc.

The yamen at the time addressed the governor of Shantung, directing him to consider and take action in the matter. That officer has now reported to the yamen as follows:

"The petition of the acting magistrate of Jih Chao, Mr. Yang, states that in regard to the case in question some time ago a letter was received from the Rev. Mr. Chalfant, and the magistrate then in office, Mr. Lu, arrested Ho Chun-min and Ho Chen-hsi, who were pointed out as causing the missionary trouble. Further, the magistrate of Can Shan district, Mr. Chen, was ordered by the prefect to send one Ho hai-min to his native place, there to be kept in custody awaiting trial. On the 25th of March, 1899, the former governor of Shantung issued instructions to Mr. Magistrate Lu (in regard to this affair), and he forthwith presented a petition to the governor, which is on record. After the petitioner had taken over the seals of office he received a letter from the Rev. Mr. Chalfant, an American missionary, in which he

requested that the ringleaders be vigorously arrested, in order to settle the missionary case. Instructions were thereupon issued to the yamen police to vigorously arrest these men, but they were not caught. On receiving the governor's present instructions, trustworthy policemen were deputed, together with clerks and runners of the punishment department, to proceed to Man T'ang Yu and Ho Chia hou and vicinity and with the utmost accuracy find out whether or not peace and quiet prevails there, and to what extent the Christian loss of grain is. Further, to inform the Christians that they should come to the city so that they be consulted and action taken in the premises. The police were at the same time ordered to vigorously search for Ho Yen-min and others and arrest them without fail so that they could be put on trial. The police and clerks have returned to the city and reported that Ho Yen-min and others had long since gone to other parts; that Man T'ang Yu, Ho Chia hou, and vicinity are extremely quiet and peaceful; that there is no chapel at Ho Chia hou, but there was a church building of three chien, or rooms, at Man T'ang Yu, which was destroyed, but the gentry and people had come forward to arrange and assist in settling the matter and have agreed to rebuild the church. The missionaries and Christians, however, have not up to the present returned to the place, and for that reason work has not commenced. As to the loss of grain and cows belonging to the Christians, the gentry and people have settled satisfactorily this question and paid the money, which the Christians duly received.

"The petitioner (magistrate) would state that the three men, Ho Chun-min and others, arrested some time ago, are the same persons mentioned in His Excellency Mr. Conger's list. They have been incarcerated several months, but one of them, Ho Chunmin, on account of sickness, died. The gentry and people have consented and agreed to pay the loss of the grain and cows of the Christians, as well as to rebuild the church which was destroyed. As to other miscellaneous losses, these they have also consented and agreed to pay. This is considered a good method of managing the matter, but the Christians up to the present have not returned to their homes, and hence there is no way to begin taking action in the matter. Strenuous search will again be made to arrest without fail Ho Yen-min and others, and when arrested another trial will take place and a report submitted."

The above petition is presented by the governor for the yamen's consideration.

We have also received a note from the governor of Shantung stating that he has again issued instructions urging the acting prefect of Ichou, together with the magistrate of Jih Chao, to lose no time in consulting with the missionary W. P. Chalfant and others, so that the matter may be speedily arranged; that the Christians may be notified to return to their homes and quietly pursue their avocations, and at the same time vigorous search must be made for the arrest of Ho Yen-min and the others, so that they may all confront each other in court and any feeling of enmity existing done away with, to the end that everlasting peace may prevail between the Christians and non-Christians.

In regard to this case we may state that three of the outlaws have been arrested and are awaiting trial. Vigorous search is being made for the arrest of Ho Yen-min and others. As to the church that was destroyed and the loss of grain, it has been decided that indemnification shall be made.

Action, therefore, has really been taken in good earnest.

In sending this note in reply to your excellency, we beg that you will instruct the Rev. W. P. Chalfant to confer with the prefect of Ichou and lose no time arranging matters; further to notify the Christians to return to their homes and peacefully pursue their respective avocations of life and thus settle this case. This is our hope.

Cards of ministers with compliments.

[Inclosure 4.]

*Mr. Fowler to Mr. Conger.*

UNITED STATES CONSULATE,  
Chefoo, July 3, 1899.

SIR: I have the honor to inclose herewith a letter from Ichoufu of June 20, upon the present situation in regard to the recent disturbances which have taken place in that prefecture.

I have, etc.,

JOHN FOWLER, *Consul.*



[Subinclosure.]

*Revs. Johnson and Chalfant to Mr. Fowler.*

I-CHOU-FU, June 20, 1899.

SIR: We beg to acknowledge the receipt of your communication, No. 1235, inclosing a copy of Minister Conger's letter to you under date of June 1. We are gratified to learn that our minister has renewed his demands upon the tsungli yamen for an immediate settlement of the riot cases in which we are interested. We wish to repeat what we have said before, that we are by no means making our demands upon the local officials in a spirit of revenge, nor do we entertain an unreasonable estimate of the extent of the reparation due to us. We simply deem it necessary that our treaty rights as American missionaries be vindicated, and that the clause in the treaty between China and the United States which provides that no Chinese subject shall be molested because he chooses to embrace the Christian religion be not allowed to become a dead letter.

The general spirit of these persecutions has been avowedly antiforeign, and in many instances, such as the cases where ancestral groves of converts have been cut down by enemies, they have been anti-Christian in the strictest sense. We maintain that foreign Governments can not afford to stand by inactive and see the Chinese Christians mobbed, robbed, driven from their homes, and even brutally murdered, because they have accepted the religion which the Chinese popularly and rightly identify with those Governments. It is not only a direct violation of the treaty, but it leads logically and actually to popular contempt for foreign Governments and to riotous attacks upon the persons and property of individual foreigners.

In this contention we believe that we have the support of the American and of other Christian Governments.

Since the date of our last letter our local magistrate has called upon us and asked us to submit a list of the losses of the mission and of the Christians to the Taotai of Yenchow-fu through a committee of the local gentry. We have, of course, long since filed these claims in the yamens of the counties where the disturbances arose. We nevertheless did as we were requested and handed the list to the committee, who report that it has been handed to the Taotai to be forwarded to the governor. We were assured that an answer might be expected by the 20th of the present (5th) Chinese month. Whether these promises will be carried out or ignored as similar promises have been ignored heretofore remains to be seen.

The claims of the Christians were carefully examined by us and cut down to the lowest limit which seemed to be just. They are, by counties, as follows:

	Large cash.
In northwest I Swei (Hsi Ch'eng Yu, etc.) .....	1,000,000
In southern I Swei .....	35,000
In northwest Ji Chao (Man T'ang Yu) .....	363,000
In Chu Chou (Liu Ts'un) .....	86,950

To these sums we have added 150,000 "large cash" toward the expense incurred by us in telegrams, messengers, and the support of refugee Christians, a sum far within the actual expense for such items. The total amount of our claims is thus 1,635,200 "large cash," equal to about \$2,000, Mexican.

A number of our Christians still do not dare to return to their homes, and with a single trifling exception no offer of indemnity has been made by the persons immediately responsible for their losses.

The report that the burned chapel at Man T'ang Yu has been rebuilt is utterly without foundation.

We are, etc.,

CHAS. F. JOHNSON.  
W. P. CHALFANT.

[Inclosure 5.]

*Mr. Conger to Mr. Fowler.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 3, 1899.*

SIR: I have the honor to inclose herewith copy and translation of a note just received from the tsungli yamen, re the I-chow-fu persecutions, which please hasten on to Rev. Mr. Chalfant, and request him to make up the cases in the line of the suggestions made, and see if it is not possible to settle them and enable the persecuted people to return to their homes and there continue to practice and teach Christianity.

There are many evident errors in the report of the officials to the governor, and even in his statement to the yamen. But there are so many officials from high to low to deal with, the distances are so great and means of communication slow, that I do not deem it best to delay the cases by taking up these errors for discussion until after Mr. Chalfant takes up the cases, and tries his best to arrange them with the prefect, as the tsungli yamen requests. It seems to me, with a copy of the yamen's note for Mr. Chalfant to present to the prefect, a reasonably satisfactory settlement ought to be made, and with the help of Mr. Chalfant and the native Christians the ringleaders can probably be readily produced for arrest and punishment. I apprehend it will be much better for missionary work as well as for the native Christians in that locality, and especially for the future potency of Rev. Mr. Chalfant's influence there, if the affair can now be settled locally and through negotiations which seem to be now opened up to him.

I am, etc.,

E. H. CONGER.

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[Inclosure 6.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 6, 1899.*

I have the honor to acknowledge the receipt of the note of your highness and your excellencies concerning the Shantung missionary troubles, dated June 30, 1899, in which you furnish very full reports from the governor and other local officials, and request me to instruct Rev. Mr. Chalfant to take up the cases with the prefect, who has been instructed to settle them with him, etc., and see if the matter can not be ended.

Many of the statements which, according to the note of your highness and your excellencies, the local officials present to the governor, I regret to say do not all agree with the facts reported to me by the missionaries. But since your highness and your excellencies have ordered a settlement made and have asked me to instruct Mr. Chalfant to join the prefect in accomplishing it, I hasten to so instruct him and will only take up the question of fact again upon their failure to satisfactorily arrange the matter.

I am, however, strongly hoping that a satisfactory settlement will now speedily result and further trouble in that locality be avoided.

With renewed assurances, etc.,

E. H. CONGER.

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[Inclosure 7.]

*Mr. Conger to Mr. Fowler.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 7, 1899.*

SIR: I have received your dispatch No. 191, of July 3, with its inclosed letter from Revs. Johnson and Chalfant.

Before this can reach you I trust they will have received my communication of the 3d instant and that a satisfactory settlement of the case may be well under way.

I am, etc.,

E. H. CONGER.

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*Mr. Adee to Mr. Conger.*

No. 203.]

DEPARTMENT OF STATE,  
*Washington, August 24, 1899.*

SIR: You transmit hither, with your dispatch No. 232 of the 12th ultimo, copies of correspondence exchanged by you with the tsungli yamen and with the consul at Chefoo, and Messrs. Johnson and Chalfant, American missionaries at I Chou-fu, in the province of Shantung, touching their trouble with the provincial authorities growing out of the anteforeign riot cases pending in that prefecture.

It appears from the correspondence transmitted by you that under date of June 5 the missionaries reported that their native Christians had not been allowed to return to their homes and resume their agricultural pursuits, and that no steps had been taken by the local authorities to settle their claims for injuries received; that on June 27 you wrote to the tsungli yamen, calling attention to this condition of affairs, and to the trifling way in which your representations to the Chinese Government had been treated, and requesting that immediate telegraphic instructions be sent to the provincial authorities to bring about the punishment of the offenders and reparation to the missionaries, as well as security for the native converts; and that under date of June 30 the yamen replied that it had already instructed the governor of the province to consider the matter and take action thereon, and that they were now in receipt of his report, which they proceeded to summarize. From that summary it appears that those directly responsible for the outrages were not found; that the place of their occurrence was quiet and peaceful; that the gentry and people of the locality were willing to pay the losses sustained, as well as to rebuild the chapel which had been destroyed; and that all that was required to bring about a peaceful settlement was that the missionaries and their converts should return to I Chou-fu to consult with the local authorities. Three of the persons implicated in the crime were then, according to the statement of the yamen, under arrest awaiting trial.

Under date of June 30 you wrote to the consul at Chefoo, inclosing a copy of the yamen's note, and, while noting a number of errors in its statements, saying that you deemed it advisable "in view of there being so many officials from high to low to deal with, the distances so great, and the means of communication so slow," for the missionaries to take up the case themselves and try to make "the best arrangement possible" with the prefect, adding that by such means you thought "a reasonably satisfactory settlement" ought to be reached.

Finally, on July 6, you wrote again to the tsungli yamen, acknowledging their note of June 30, informing them of the advice you had transmitted to the missionaries, and stating that you would only take up the question of fact again upon the failure of the missionaries and the prefect to satisfactorily arrange the matter.

Upon this showing the Department is disposed to think that, while the procedure suggested by you may operate to bring about a settlement of this particular case satisfactory to the immediate sufferers, you have foregone a convenient opportunity for insisting upon the responsibility of the local authorities of I Chou-fu, whose punishment you might have continued to urge on the lines of the policy laid down in the instructions heretofore sent to the legation in analogous cases, such punishment being in complete accord with Chinese ideas, and being, moreover, apparently the only recognized method of preventing the recurrence of such inquiries. There is ground for apprehension lest an omission, the appropriate case arising, to strongly bring to the knowledge of the tsungli yamen the purpose of this Government to insist upon the punishment of the local officials may tend to weaken any representations you may hereafter be called upon to make in that sense under standing instructions.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Conger to Mr. Hay.*

No. 265.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, October 7, 1899.*

SIR: Referring to my dispatch No. 232 of July 12 last, in regard to missionary troubles in Shantung, I have the honor to inform the Department that I am to-day in receipt of a dispatch from Consul Fowler, at Chefoo, in which I am advised that a satisfactory indemnity has been paid Mr. Chalfant.

I have, etc.,

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 215.] DEPARTMENT OF STATE,  
*Washington, October 27, 1899.*

SIR: I inclose for your information a copy of a dispatch from the United States consul at Chefoo inclosing a letter to him from Charles F. Johnson and others in Ichoufu in relation to the payment of indemnity for damage done during the recent anti-Christian disturbances in that prefecture.

I am, etc.,

JOHN HAY.

[Inclosure in No. 215.]

*Mr. Fowler to Assistant Secretary of State.*

CONSULATE OF THE UNITED STATES,  
*Chefoo, China, September 11, 1899.*

SIR: I have the honor to inclose herewith a letter received from Ichowfu dated August 14, 1899, in regard to the payment of indemnity for damage done during the recent anti-Christian disturbances in that prefecture.

I have, etc.,

JOHN FOWLER, *Consul.*

[Subinclosure.]

*Mr. Johnson et al. to Mr. Fowler.*

ICHOW, SHANTUNG, *August 14, 1899.*

SIR: We beg to acknowledge the receipt of recent communications from you, as follows: No. 1266, inclosing copy of minister's dispatch, No. 365; No. 1272, inclosing note from Mr. McMullan, in re postal route; No. 1281, inclosing copy minister's dispatch, No. 376; No. 1324, inclosing copy minister's dispatch, No. 392, and No. 1327, inclosing copy of minister's dispatch, No. 393.

We desire, once more, to express our appreciation of the energy with which you have prosecuted this case, and, moreover, we hereby request you to be so kind as to convey to his excellency, Minister Conger, our thanks for the renewed pressure which he is bringing to bear in our interest. There can be little doubt that a determined attitude and persevering pressure from above will now enable us to bring these cases to a creditable termination.

Since forwarding our last letter, that dated July 31, we have renewed our demand upon the prefect for the payment of the promised indemnity to the Christians. We first wrote a letter, and then, receiving no reply except a card, we went in person and presented him the copy of the letter from the tsungli yamen to Minister Conger. He

explained that the expected remittance of silver had not arrived from Chinanfu and assured us, as usual, that it would be here sooner or later. We then informed him that the condition of the Christians who were robbed is very pitiable, especially in the Iswei district, where the summer crops which they have been able to plant have been destroyed by a severe hailstorm. We suggested that he personally advance part of the indemnity for the relief of the immediate necessities of the Christians. We pointed out that, at his instance, the acting county magistrate had already advanced sufficient funds to the Catholics to cover all their losses in this county.

He promised to take the matter into consideration, and last night a committee of the gentry called to notify us that the prefect would cause the magistrate to advance a sum which was, after some discussion, fixed at 300,000 "large" cash, or nearly one-fifth of our entire claim. This sum he promises to pay to-morrow.

This morning a secretary of the Chu Chou yamen arrived to negotiate for a settlement of the Liu Ts'un cases. He claims to have brought down with him, in custody, one of the ringleaders in the robbery at Liu Ts'un, together with a representative of Liu Ts'un. We have sent for the Christian involved and shall try to settle the matter.

At the written request of the magistrate of Ji Chao County we have sent to him, to be forwarded to Man T'ang Yu, the refugee Christians who have found an asylum with us for the past eight months. In spite of the statement to the contrary, in the letter from the tsungli yamen to Minister Conger, there has been no reparation whatever made to the despoiled Christians at Man T'ang Yu. The arrangement alleged to have been made by the local gentry evidently refers to the written promise of settlement which the three foreigners extracted from the Ho Chia Lou people when the latter attempted to frighten the visitors away by an armed demonstration, as related in the first letter written to you by us concerning these riot cases.

That promise was not kept. On the contrary, most of the rioting was done after it had been given.

In reference to our recent demand that the Ji Chao magistrate arrest the chief ringleader at Ho Chia Lou, Ho Wên Chih (not Ho Yen Man, as the tsungli yamen's letter, above referred to, insists on having it), the magistrate replied that he had again sent constables, but Ho Wên Chih had fled. We consider it important that this man be arrested, so as to prove to the people in that region that they can not with impunity organize armed attacks upon American citizens going quietly about their business under treaty guaranties.

We remain, etc.,

CHARLES F. JOHNSON.  
WM. P. CHALFANT.  
WALLACE S. FARIS.

#### PROTECTION OF PURCHASERS OF CHINESE PATENTS.

*Mr. Conger to Mr. Hay.*

No. 296.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, December 20, 1899.*

SIR: I have the honor to transmit herewith correspondence concerning a patent spinning machine bought by Revs. Miner and Brewster, American missionaries, and Henry Edgar, an Englishman, from a Chinese who had secured a patent therefor from the tsungli yamen, and which they claim is now being manufactured by another Chinaman without their permission.

The tsungli yamen, as you will see, claim that because there is no stipulation in the treaties upon the subject they can take no action.

It seems to me that, under the circumstances, further argument on my part is useless.

I may add, however, that the Chinese look with a degree of suspicion upon the missionaries who engage in any sort of business scheme or enterprise, and possibly this may in some measure account for their decision.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Mr. Gracey to Mr. Conger.*CONSULATE OF THE UNITED STATES,  
*Fuchau, March 29, 1899.*

SIR: I have the honor to state that I was called upon by Rev. Mr. Miner yesterday in regard to an infringement of a patent right granted to a Chinese subject by the name of Cheng Tzu-sui on June 17, 1898.

Mr. Miner and other Americans have purchased the right to manufacture said machine and pay the Chinese inventor a royalty.

Recently another Chinaman by the name of Kung I-tu, who is a retired official, has been having some of these machines manufactured, and has applied to the Government at Peking for a patent, claiming that his machine is to run by water power, while the original is run by foot or hand. As this machine is an imitation of the original, the mere matter of the power to be applied in its use does not enter into the question of the patent right.

The American gentlemen interested request that you will interfere in their behalf to prevent the issuance of this new patent.

I have, etc.,

SAMUEL L. GRACEY.

[Inclosure 2.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES OF AMERICA.  
*Pekin, China, April 10, 1899.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to advise your highness and your excellencies that G. S. Miner, American citizen of Fuchau, has purchased from a Chinese inventor the patent for a spinning machine, and is now manufacturing under said patent; that another Chinese, Kung I-tu, has applied for a patent for the same invention, changing only the motive power, but not the machine, the former being operated by foot or hand and the latter by water power.

The issuance of another patent for the same invention would very seriously impair, if not wholly destroy, the value of the patent now owned by Mr. Miner, which the undersigned can not believe the Chinese Government will permit.

He therefore brings the matter to the attention of your highness and your excellencies and requests that such investigation be made and such orders issued as will protect Mr. Miner in the full enjoyment of this right which, by the patent issued by the Chinese Government, has been guaranteed to him as the legal successor of the original patentee.

The undersigned avails, etc.,

E. H. CONGER.

[Inclosure 3.]

*The Tsungli Yamen to Mr. Conger.**PEKIN, April 20, 1899.*

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note of the 10th instant, wherein you state that G. S. Miner, an American citizen at Fuchau, has purchased from a Chinese inventor (Chen Tzu-sui) the patent for a spinning machine, and is now manufacturing under said patent; that another Chinese (Kung I-tu) has applied for the same invention; that the issuance of another patent for the same invention would destroy the value of Mr. Chen's patent, now owned by Mr. Miner, and you requested that such orders be issued as will protect him in the full enjoyment of his rights under the patent issued, etc.

It appears that on the 17th of June, 1898, the yamen issued a patent to one Chen Tzu-sui, a Chinese subject, for a spinning machine which he had invented. The machine was really a useful one, and the patent issued gave him the exclusive right to manufacture same for the period of fifteen years. This was done in order to encourage him.

We may mention that in your excellency's note the name of the inventor is given as Chen Tzu-shou, a Foochow man, whereas it should have been Chen Tzu-sui.

We may also state that Mr. Kung I-tu has never applied to the yamen for the issuance of a patent.

Cards of ministers with compliments.

[Enclosure 4.]

*Mr. Gracey to Mr. Conger.*CONSULATE OF THE UNITED STATES OF AMERICA,  
*Fuchau, China, May 29, 1899.*

Sir: I had the honor to address a communication to you on the 29th of March last in regard to the infringement of a patent on a spinning machine, by the Chinese authorities at Peking to a native by the name of Cheng Tzu-sui, June 17, 1898.

Mr. George S. Miner and W. N. Brewster, American citizens at this port, bought the right to manufacture and use such machines from the inventor. As I have previously written you, another Chinaman, who is a retired official of wealth, by the name of Kung I-tu, has been having similar machines manufactured, and is running them by water power on the hills near Fuchau. I have made the request to the viceroy of this province to restrain Kung I-tu from making or using said machines, and he replies that he will cause an examination to be made of the two machines.

Yesterday the taotai of the foreign board called to see me in reference to the matter. He made inquiries as to the patent laws of Western countries. It would appear from what he tells me that the issuing of patents in China to natives being such a new thing the laws have not yet been formulated covering infringement of rights, sale of rights, etc. He asked me if an American inventor could transfer all his right to another American or a foreigner for a consideration, and if so what protection would be granted by our laws to a foreigner in America? He said there was no law in China allowing such transfer to be made, but the right was issued to be used only by the native.

He further said the machine claimed by Mr. Cheng as his invention was all right, but was only to be run by foot power, whereas Mr. Kung's machine was run by water power, which made it a very different thing and capable of producing much more and better material. He argued that this was an improvement so we could not object to Mr. Kung's action, and that he might apply to Peking for a patent also. I endeavored to make him understand the laws of patent rights as held in America, and that it frequently happened that an inventor being a poor man was not able to develop his invention, and consequently sold all or part of the right to manufacture to others. I further told him that a patent was issued on a certain principle applied, and that the power used, whether steam, electricity, water, wind, animal, foot, or hand, to run the machine had nothing to do with the principle which had been patented, and that the infringer was using machines made on a certain principle or manner which had been patented. He then said "but you know many firearms are patented, and if another ingenious man makes an improvement on a gun he can receive a patent for that and manufacture the gun." I endeavored to explain this to him also, saying that the new could only be applied to the old gun by consent of the original inventor, and if the original inventor desired to use the improvement he could only do so by paying the inventor thereof for the privilege and thus the rights of both were protected; but if a man claimed the privileges of manufacturing and using a patented firearm because he had invented a new powder to be used in it called "smokeless powder," his claim could not be allowed.

I suggested that this was a parallel case with his spinning machine, as both related to a power outside and apart from the machine by which it was operated. I spent a long while in this kind of kindergarten exercise in regard to patent laws and principles. He said all these questions were so new with the Chinese authorities that they did not know what to do, and would have to refer the matter to Peking for settlement. I suppose he will do so, and I write this to give you information as to some of the difficulties which will doubtless arise before the Chinese have formulated fully their patent laws.

In the meantime Mr. Kung is manufacturing and using the machines, notwithstanding my request to the officials to restrain him from doing so.

I am, etc.,

SAMUEL L. GRACEY, *Consul.*

[Inclosure 5.]

*Mr. Conger to Mr. Gracey.*LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, June 7, 1899.*

Sir: I have to acknowledge receipt of your No. 60 of the 29th ultimo, concerning the infringement by one Kung-i-t'u of a patent for a spinning machine issued by the

Chinese Government to one Chen Tzu-sui and now owned by the American citizens George S. Miner and W. N. Brewster.

You will remember that in your dispatch of March 29 last it was claimed that Mr. Kung-i-t'u had applied for a patent upon a like machine which the tsungli yamen did not issue. They replied that he had made no application for a patent.

Now, upon your further statement that Mr. Kung-i-t'u is, without a patent, making and using said machines, and that the local officials inform you that the question of infringement must be referred to Peking, I have requested the tsungli yamen to issue such orders as will protect the present owners of the patent in the exclusive right to make and use the invention.

I am, etc.,

E. H. CONGER.

[Inclosure 6.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,

*Pekin, China, June 8, 1899.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, recalls to the attention of his highness and their excellencies his note of April 10 last, and their reply of April 20, on the subject of a patent for a spinning machine issued by the tsungli yamen to one Chen Tzu-sui and its infringement by one Kung-i-t'u.

His Highness and their excellencies stated in their note that Mr. Kung-i-t'u had never applied for a patent, etc.

However, the United States consul at Fuchau now informs the undersigned that the said Kung-i-t'u is manufacturing and using similar machines, and that the local officials, in reply to his request that Mr. Kung-i-t'u be restrained from making and using said machine in violation of the patent mentioned, informs him that the matter would have to be referred to Peking for settlement.

Mr. Kung claims that because he runs his machine by water power and those made under the patent of Chen Tzu-sui are run by some other power, that consequently his is not an infringement.

But in this case it is the machine itself which is covered and protected by the the patent, and not the method of running it.

It would be quite as reasonable to say that in a case where one had patented a particular kind of cart, which he had drawn by a horse, it would not be an infringement if another made the same kind of cart and had it drawn by a mule.

The present owners of the patent spinning machine referred to are George S. Miner and W. N. Brewster, American citizens, and the undersigned therefore requests that his highness and their excellencies will cause such orders to be issued as will protect them in the exclusive right to make and use the machine for which his highness and their excellencies have themselves granted a patent.

The undersigned avails, etc.,

E. H. CONGER.

[Inclosure 7.]

*The Tsungli Yamen to Mr. Conger.*

*PEKIN, June 18, 1899.*

YOUR EXCELLENCY: We have had the honor to receive your excellency's note in regard to the patent for a spinning machine, issued by the tsungli yamen to one Chen Tzu-sui and its infringement by one Kung I-tu. Although Kung I-tu had never received a patent from the yamen, the local authorities state that he can not be restrained from making and using the said machine and that the matter would have to be referred to Peking for settlement. The present owners of the patent referred to are George S. Miner and W. N. Brewster, American citizens, who bought the patent from Chen Tzu-sui, and your excellency requested that such orders be issued as will protect them in the exclusive right to make and use the machine, etc.

In reply, we would beg to observe that, in the matter of protecting patent rights, China has never entered into a treaty with western nations on the subject. In the present case, however, Chen Tzu-sui has sold his patent to Mr. George S. Miner and W. N. Brewster, and China can only say that at all the treaty ports they can carry on their business of their own free will and accord. But as there is no stipulation of treaty in regard to protecting patent rights, the yamen has really nothing to rely on in taking action in the premises.

Cards of ministers with compliments.



## FOREIGN RELATIONS.

[Inclosure 8.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, June 21, 1899.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the reply which his highness and their excellencies have made to his note requesting protection of the patent which the tsungli yamen issued to Chen Tzu-sui, and which is now owned by Messrs. Miner and Brewster.

He notes the claim of his highness and their excellencies that because China has never negotiated treaties upon the subject of patents the tsungli yamen has nothing to rely on in taking action in the premises, but he can not agree to this conclusion.

It is true that China has never entered into special patent-right treaties, but this is not a question of a foreign patent, and hence no patent treaty is necessary. The case is fully provided for by the general treaties.

The tsungli yamen has formally granted a patent for the machine mentioned and guaranteed to it exclusive rights a period of fifteen years, and unless prohibited by the terms of the grant itself it may, by law, equity, and universal practice, be properly transferred to anyone, and the tsungli yamen is bound to carry out its guaranty in whomsoever's hands it may legally be found.

It certainly would not refuse to protect this patent in the hands of any Chinaman to whom it might be transferred, and since by treaty China has agreed that foreigners may enter and do business in the treaty ports, and their persons and everything belonging to them be always fully protected, she can not now legally or equitably refuse to protect this property of Americans simply because it happens to be a species of property created by the Chinese Government itself and which rightfully has come into the possession of Americans.

It is a plain matter of business, and should be treated in a businesslike way.

Why does the tsungli yamen issue exclusive patents if it does not intend to protect them from infringement?

The fact that the one under consideration has fallen into the hands of a foreigner can in no way release the Chinese Government from its promises and obligations concerning it.

Prompt and proper appeal has been made to the local officials for protection against the infringement of Kung I-tu, but they reply that they are powerless to restrain him, and that the matter can only be settled by the tsungli yamen.

There seems, therefore, to be left to the undersigned no other course than to bring the matter to the attention of his highness and their excellencies and to again request that the local officials be ordered to see to it that Kung I-tu and all other persons be restrained from making and using the above-mentioned machine, except under the exclusive patent already granted by the tsungli yamen.

The undersigned improves, etc.,

E. H. CONGER.

[Inclosure 9.]

*Mr. Gracey to Mr. Conger.*UNITED STATES CONSULAR SERVICE,  
*Fuchau, China, October 28, 1899.*

SIR: I have the honor to inclose herewith copy of a letter received by me from Rev. G. S. Miner, in reference to the infringement of patent-right case, entered as No. 9 in this consulate. I think Mr. Miner's letter is self-explanatory and needs no further comment.

I am, etc.,

WILBUR T. GRACEY,  
*Vice-Consul in Charge.*

[Subinclosure.]

*Mr. Miner to Mr. Gracey.*FOOCHOW, CHINA, October 14, 1899

DEAR SIR: On June 22, 1899, I sent you a communication setting forth:

First. The interest that Henry Edgar, esq., a British subject, and W. N. Brewster and myself, citizens of the United States of America, have in a certain spinning

machine invented by one Chen tzu sui, of Foochow, a Chinese subject, and patented by the tsungli yamen on the 15th day of the 4th moon of the 24th year of the Emperor Kuang-su; and

Second. That one Kung Pao hu, of Foochow, a Chinese subject, was making and using machines similar to those of Mr. Chen's, thereby trespassing upon letters patent.

As further proof of our claim on said spinning machine, I present the following exact copy of a bill of sale, exact save that the sum paid for same is left blank, as we do not care to make that public.

*Bill of sale.*

I, Ding liu sui (Chen tzu sui, the mandarin spelling and pronunciation of Foochow), Province of Fukien, Empire of China, a Chinese subject, who am the inventor of a machine called the automatic rotary spinning machine, do, for and in consideration of ——— and ——— Mexican dollars, the receipt whereof is hereby acknowledged, and an additional consideration to be paid in certain royalties, as provided for in another instrument, hereby transfer, assign, bargain, sell, and convey unto W. N. Brewster, of Hinghua, China, and G. S. Miner, of Foochow, China, who are citizens of the United States of America, all claims, patents, and protections granted and pending, and that may in the future be granted, and rights of proprietorship which I have in the said automatic rotary spinning machine, and all improvements I may make thereon, so far as they relate to the manufacture, use, and sale of same in all the countries of the world, intending and hereby stipulating that the said W. N. Brewster and G. S. Miner shall have the right to patent in all countries of the world the said automatic rotary spinning machine, having such patents issued in their own names or in the name of any firm or company they may form, or in the name of any person or company of persons to whom they may assign their interest, and those said rights of proprietorship and patents shall inure absolutely to them and their heirs forever.

Witness my hand and seal this 19th day of July, 1898.

DING LIU SUI.

Signed at Foochow, China, this 19th day of July, 1898, in the presence of—

WONG LIK SING.  
HU UNG KING.

The following is a translation of the letters patent.

The Chinese copy is annexed thereto.

The tsungli yamen issues the following letters patent:

Whereas, on the 15th day of the 4th moon of the 24th year of the Emperor Kuang-su, the inspector-general of customs stated that the excommissioner of the maritime customs at the port of Foochow, Henry Edgar, esq., had asked leave to return to his native country and in making the journey had come to the capital and had brought with him a Chinaman, Ding liu sui, and a cotton machine invented by him, the said Ding liu sui; and

Whereas the said commissioner said that the said cotton machine had been examined by skilled mechanics and proved to be a proficient and useful machine of new invention, he, the said commissioner, asked the tsungli yamen to issue, according to the Western laws, letters patent, etc., giving sole right to make and use said machine, so as to encourage other people in the future to think out new things.

Upon examination, the present tsungli yamen found that in the twenty-first year of the Emperor Kuang-su the grand commissioner of the northern ports of China presented a memorial with reference to forming a company for making wine, and asked to have a certificate issued granting them the sole right to make it for fifteen years. At that time the tsungli yamen consulted with the board of revenue about it and then memorialized the Throne, from which they received a decree granting the said permission. All this is on record.

Now the inspector-general of customs has sent Ding liu sui with his machine to the yamen for examination, and truly it was found to be a useful machine, showing that he had great skill in inventing his machine.

Therefore, we now, in accordance with the former record, issue this certificate, letters patent, granting him the sole right to make and use the said machine for fifteen years, and during that time no one shall be allowed to establish any other factory for making said machine to be used by them. This we do to encourage other people to think out new things.

When the time of these letters patent has expired they are to be returned for cancellation, according to what is recorded. This letters patent is issued to Ding liu sui to receive and hold, on the 29th day of the 4th moon of the Emperor Kuang-su.

In an instrument dated June 27, 1898, is set forth facts which prove that Henry Edgar, W. N. Brewster, and myself are equal owners in the above-named automatic rotary spinning machine.

The following is a translation of the statement of Mr. Ding liu sui, the inventor of the said spinning machine.

The Chinese original copy is attached hereto.

I, Ding liu sui, of Foochow, China, make the following statement, which is the truth. In the 10th year of the Emperor Kuang-su I thought out the principle on which the automatic rotary spinning machine is constructed and operated. From that time until the 24th year of the Emperor Kuang-su I have been studying and improving it. In the 4th moon of the 24th year of the Emperor Kuang-su I went with Commissioner Edgar to Peking and secured letters patent for my spinning machine, which is there on record. This I state according to the truth for your consideration.

DING LIU SUI.

Signed this 24th day of October, 1899.

Witness: LAN KIENG HWO.

The piles of wheels, frames, tubes, etc., we saw in Mr. Ding's attic the spring of 1896 were enough to prove the above statement.

The following is the statement of Mr. Lan Kieng Hwo, a graduate of the Anglo-Chinese College, a business man of this port, who has been acquainted with this cotton-machine business from the first:

FOOCHOW, CHINA, October 26, 1899.

This is to certify that I do not hesitate to state that I am personally acquainted with G. S. Miner, W. N. Brewster, Henry Edgar, Ding liu sui, and Kung Pao-hu. I know that Mr. Ding has worked many years and spent a large sum of money in bringing his machine to its present state of perfection. I know a number of men who used to work for Mr. Kung Pao-hu, and who testified before me and others that it has not yet been two years since Kung Pao-hu commenced the spinning business, and when he did commence he bought a few old machines that were found around among the people of Foochow. Mr. Kung proclaimed that he had a patent for this spinning machine and compelled these persons to sell to him.

LAN KIENG HWO.

I have talked with Mr. Kung on this subject and he has never claimed to be the inventor of the machine. In the years 1890 and 1897 we employed a number of men to make machines, so as to give them a thorough test. These machines have been in use ever since in Hing hua, as heretofore stated. In 1897 we heard that our men had made and sold one or more machines. Soon after this I visited a place in the city and found one machine like ours, but they would not tell us where they got it.

Now there is nothing clearer than that these machines of Gung's (Kung Pao-hu) were patterned after Mr. Ding's (Chen tzu sui) and that the rights of Mr. Ding are being infringed upon and the honor of the tsungli yamen degraded by this man Gung. Mr. Gung is now making and using the machines after you have respectfully asked him to desist from infringement. I trust you will present this case again to the proper powers and the rights of Ding liu sui, Henry Edgar, N. W. Brewster, and myself be protected.

I have, etc.,

G. S. MINER.

[Inclosure 10.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, December 1, 1899.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: With reference to the question of infringement of a patent for a spinning machine, issued by the tsungli yamen to one Chen Tzu sui, and transferred to Messrs. Brewster and Miner, American citizens.

On June 21, last, I had the honor to address your highness and your excellencies an additional note with important arguments therein, to which as yet I have received no response.

Trusting that your highness and your excellencies have now had time to give this note consideration, as it deserves, I have the honor to respectfully request a reply to the suggestions made therein.

I avail, etc.,

E. H. CONGER.

[Inclosure 11.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, December 19, 1899.

YOUR EXCELLENCY: Upon the 1st of December, instant, we had the honor to receive your excellency's note with reference to the question of infringement of a patent for a spinning machine, issued by the tsungli yamen to one Chen Tzu-sui and transferred to Messrs. Brewster and Miner, American citizens. Your excellency referred to your previous note of June 21, last, and stated that the yamen have now had time to give the note the consideration it deserves, and you respectfully requested a reply to the suggestions made therein.

Upon the 8th of June your excellency addressed the yamen requesting that such orders be issued as will protect Messrs. Brewster and Miner in the exclusive right they purchased, and on the 18th idem the yamen duly replied to same. This is a matter of record.

Now having received the note under acknowledgment, we have to say that China will still permit Messrs. Brewster and Miner, at all the treaty ports, to carry on their business of their own free will and accord, but as to protecting them in their exclusive right and prohibiting others from making machines, as there is no treaty stipulation on the subject, the yamen still finds no way of taking action.

Cards of ministers with compliments.

#### ISSUE OF PASSPORTS TO DISREPUTABLE CHARACTERS.

*Mr. Conger to Mr. Hay.*

No. 230.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 11, 1899.*

SIR: I have the honor to transmit herewith copies of correspondence between this legation and Consul Fowler concerning the refusal to issue passports or travel certificates to women known to be plying their lewd vocation, and who in fact desire them for protection in such practice.

I hope my action will meet with the Department's approval.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Mr. Fowler to Mr. Conger.*

No. 188.] UNITED STATES CONSULATE,  
*Chefoo, June 28, 1899.*

SIR: Within the past few days I have received letters from two women in Port Arthur requesting me to send them passports. I wrote to them that in order to secure a passport the applicant must appear in person. The writers stated that they were "Tourists, stay in Port Arthur indefinite."

On inquiring, I learned that they are two disreputable persons, and required the passports in order to be able to continue their mode of living in Port Arthur.

As it is probable that they will be compelled to get passports, I wish to know if you will authorize me to refuse them, or other like characters, when applying for passports for such purposes.

Ordinarily I could forward their applications to you, with a letter explaining matters, but when parties apply for passports for Port Arthur they do so in order, not to obtain a legation passport, but the travel certificate, and parties who apply for legation passports are entitled to the certificates if they want it, to be returned should the legation refuse its passport; but by that time the party has probably returned or left Port Arthur and no longer desires any passport.

As the parties referred to are lawbreakers, they are not entitled to passports in my opinion.

I have, etc.,

JOHN FOWLER, *Consul.*

[Inclosure 2.]

*Mr. Conger to Mr. Fowler.*

No. 373.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, July 3, 1899.*

SIR: I have received your dispatch No. 188 of June 28, reporting a request for passports from Port Arthur by two disreputable women, who required the passports in order to be able to continue to ply their vocation at that place, and inquiring if I will authorize you to refuse them and other like characters when applying for passports for such purposes.

As a general rule, it would hardly do to make moral character a basis for the issuance of passports, yet, in these Eastern countries, where certificates of citizenship stand for so much, I shall not furnish passports to parties who are known to be of the class and plying the vocation you name.

When, therefore, there is no question whatever to the facts, you may refuse to forward applications, and consequently to give travel certificates.

I am, etc.,

E. H. CONGER.

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*Mr. Adee to Mr. Conger.*

No. 204.]

DEPARTMENT OF STATE,  
*Washington, August 24, 1899.*

SIR: I have received your dispatch No. 230 of the 11th ultimo, with which you transmit copies of correspondence between the legation and the consul at Chefoo concerning your refusal to issue passports or travel certificates to certain women of disreputable life at Port Arthur, who it would seem seek those papers to enable them to continue to reside there.

While the statute vests in the Secretary of State the discretion to issue passports to citizens of the United States, which discretion has been delegated under appropriate regulations to the agents of this Department in foreign countries, the exercise of that discretion has been generally confined to requiring full establishment of the citizenship of applicants and of their conservation, in good faith, of the character of citizenship, to the end that the statute may be obeyed and that passports may issue to none but citizens. Their conduct or deportment has not been made the subject of discretionary regulation so far as the granting of passports is concerned. Their acts, if wrongful, are matters for the cognizance of the law of the place of their sojourn, or of the law of the United States, if any statute be applicable to their case. Even when accused of crime or offense in a foreign land, a citizen of the United States would be entitled, in case of need, to such certification of his status as a passport affords. There have been instances in the past where the Department has exercised its discretion to the extent of directing the refusal of passports to those whose conduct in another country was violative of the laws of the United States, as when, several years ago, passports were ordered to be denied to emissaries of the then polygamous Mormon sect who were seeking to make proselytes in Germany, but such instances have been rare, and this course could obviously only be pursued under distinct warrant of law. The Federal statutes indeed take cognizance of questions of morality in the case of aliens immigrating to our shores or applying for admission to citizenship, and this may have been deemed by you applicable, by analogy, to the case in point. But these statutes

do not reach the cases of citizens returning within the jurisdiction of the United States.

The Department would not hold itself authorized to prescribe any conditions or qualifications of title to claim a citizen's passport other than those prescribed by law. Unless the refusal of a passport can be predicated on authority of law or of diplomatic instructions and regulations made pursuant to law, a passport may not be withheld from a bona fide citizen.

The foregoing considerations make me hesitate to sanction the action you report lest it might be found to work deprivation of rights of citizenship otherwise than in pursuance of judicial course, and so inflict a penalty without the jurisdiction to try and sentence.

In this conclusion I but follow your statement to Mr. Fowler, that, "As a general rule, it would hardly do to make moral character a basis for the issuance of passports."

Your direction to the consul, however, does not amount to a refusal of a passport upon application actually made, but only directs him to decline to forward applications, and, consequently to give travel certificates. As to the travel certificates, their issuance by the consul would appear to be discretionary, Port Arthur being in territory administered by Russia and not by China.

Under all the circumstances, therefore, I am inclined to take the view, both in the interest of the right of American citizens and because of the necessity for a passport in a place under Russian jurisdiction, that in case you receive applications from these two women, either through the consul or themselves directly, made out properly, you should issue the desired passports.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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**CHINESE EXCLUSION ACT—RIGHT OF CHINESE CONSULAR OFFICERS TO ISSUE PRESCRIBED CERTIFICATES.**

*Mr. Hay to Mr. Wu.*

No. 65.]

DEPARTMENT OF STATE,  
*Washington, October 5, 1898.*

SIR: I have the honor to inclose herewith, in order that consuls dependent upon you may be suitably instructed in accordance therewith, a copy of an opinion given on the 31st ultimo (August 31 last) by the Acting Attorney General to the Secretary of the Treasury, wherein it is held that there is no authority derived from existing laws of the United States granting to consular officers of China in a foreign country the right to issue the certificates prescribed by section 6 of the act of Congress of July 5, 1884.

In view of this opinion, certificates issued to Chinese subjects of the exempt class by consuls of China will not hereafter be accepted as evidence of the right of the holder to enter this country, and the consular officers of the United States have been directed to discontinue the practice of visaing certificates so issued.

Chinese subjects of the exempt class coming into the United States from China will be required to produce certificates from the Govern-

ment of China, and those coming from foreign countries in which they are residents must produce, under the treaty of 1894, the certificates of the Government of such countries.

Accept, etc.,

JOHN HAY.

[Inclosure.]

*Acting Attorney-General to Secretary of the Treasury.*

DEPARTMENT OF JUSTICE,  
Washington, D. C., August 31, 1898.

SIR: I have the honor to acknowledge the receipt of your communication of July 23, 1898, in which you invite my attention to the opinion of my predecessor, dated January 8, 1894 (20 Op., 693), holding that certificates issued by consular officers of China in a foreign country are certificates contemplated by section 6 of the Chinese exclusion act of July 5, 1884; and to the opinion of my predecessor, dated May 20, 1896 (21 Op., 347), holding that under the treaty with China of March 17, 1894, the certificates in question must issue from the proper authorities of the foreign government where Chinese subjects of the privileged classes, applicants for admission to the United States, last resided; and in which, finally, in view of the foregoing, you request my opinion as to the authority of consular officers of China in foreign countries to issue the certificates prescribed in section 6 of the said act of 1884.

It is fairly to be assumed that the Chinese persons, whose case we are to consider in this review, are those of the classes privileged to be admitted into the United States, who are subjects of China, resident in some other foreign country. The treaty referred to regards, in this connection, only "Chinese subjects" in terms and by necessary intendment; and the opinion last cited expressly relates to Chinese subjects alone. The act of 1884 embraces Chinese persons who are subjects of other foreign governments, as well as those who are Chinese subjects, but the opinion first cited, construing section 6 of this act, necessarily has in view only the latter class, since it may hardly be doubted that under this section it was and is requisite that Chinese persons entitled to admission to the United States, being subjects of some other foreign government than that of China, must produce a certificate issued by the proper officials of such government and not by those of China. At all events, the question as it affects Chinese persons, other than Chinese subjects, is beyond the scope of our inquiry, and we may therefore dismiss that branch of the case. In any view it is reasonable to conclude that if the determination reached by me is that consular officers of China in a foreign country are not authorized to issue to Chinese subjects resident therein the certificates prescribed by the act of 1884, a fortiori such consular officers are not authorized to issue these certificates to Chinese persons who are the subjects of such other foreign country.

Section 6 of the act of July 5, 1884 (23 Stats., 115), provides that:

"\* \* \* every Chinese person other than a laborer, who may be entitled by said treaty (the treaty of 1880) or this act to come within the United States, and who shall be about to come to the United States, shall obtain the permission of and be identified as so entitled by the Chinese Government, or of such other foreign government of which at the time such Chinese person shall be a subject, in each case to be evidenced by a certificate issued by such government." \* \* \*

The opinion first cited herein construing the language of this section that the "permission" and "identification" of the Chinese person shall be "evidenced by a certificate issued by such government," reaches the conclusion that certificates accurately conforming to the requirements of section 6 and issued by consular officers of China in a foreign country, duly empowered by the Chinese Government, are valid. The words of the act "such government" point to the "Chinese Government or \* \* \* such other foreign government of which at the time such Chinese person shall be a subject." This language is to be taken distributively rather than as allowing an alternative source for the certificate, either to Chinese subjects or to persons of Chinese descent who are not Chinese subjects, and hence the conclusion of the opinion in question quite clearly implies, as before indicated, an application only to subjects of Chinese resident in another foreign country.

The situation was changed by Article III of the Convention of 1894 between the United States and China (28 Stats., 1210), which reads:

"\* \* \* To entitle such Chinese subjects as above described to admission into the United States, they may produce a certificate from their Government or the gov-

ernment where they last resided vised by the diplomatic or consular representative of the United States in the country or port whence they depart." \* \* \*

My predecessor was of the opinion (21 Op., 347) that the provisions of this article of the treaty of 1894 are self-executing and are a part of the supreme law of the land, and he holds in effect, therefore, that while prior to the treaty of 1884 a certificate from the foreign authorities as to privileged Chinese subjects resident within a foreign jurisdiction would have been insufficient, and a certificate from the Chinese Government or its accredited consular officials would be necessary, the treaty being subsequent to the act of 1884, has modified the requirements thereof, so that the certificate must now be issued in such cases by the foreign government and not by officials of China. This opinion evidently regards the treaty as mandatory on this point, and suggests no alternative under which such applicant for admission might properly produce either the certificate of consular officials of China or the certificate of the foreign government. I concur in this reasoning and conclusion. There is no fundamental inconsistency or repugnancy between the act and the treaty, nor between the opinions of my predecessors considering them respectively, nor has any radical change in procedure resulted from the partial modification of the act by the treaty. The certificate is the same in its contents and incidents, but the source from which it issues in the case which we are considering has been transferred from the Chinese Government to the foreign government of residence. The whole scope of the question may be summarized as follows:

Chinese subjects of the permitted classes coming into the United States from China must produce the certificate of the Government of China, and coming from other foreign countries in which they are residents, must now produce, under the treaty of 1894, the certificate of the Government of such countries, and not, under the act of 1884 (as considered in 20 Op., 693), the certificate of consular or other proper officials of China. It lies beyond our inquiry, as I have intimated, to determine whether, granting that under the act of 1884 the certificate of a Chinese person being the subject of another foreign Government must be issued by that Government when he comes from its jurisdiction into the United States, it should be issued by that Government or by the Government of residence when he resides elsewhere and proceeds therefrom to the United States. To such Chinese persons the treaty of 1894 does not legally extend, and it has not been determined, so far as I am aware, whether as to them the test of relation as subject or citizens indicated by the act of 1884 or the test of residence by an equitable application (so to speak) of the principle of the treaty is to be invoked. It may be that this latter question is not of practicable moment at present, or that you have already, in the regulations and practice of your Department, disposed of it.

I therefore respond to your request by stating that in my opinion there is no authority to be derived from our existing laws granting to consular officers of China in a foreign country the right to issue the certificates prescribed by section 6 of the act of July 5, 1884.

Very respectfully,

JAS. E. BOYD,  
*Acting Attorney-General.*

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*Mr. Wu to Mr. Hay.*

No. 108.]

CHINESE LEGATION,  
*Washington, November 7, 1898.*

SIR: I had the honor to receive your note of the 5th ultimo, with which you inclose an opinion of the Acting Attorney-General expressing the view that there is no authority to be derived from the existing laws of the United States granting to consular officers of China in a foreign country the right to issue the certificates prescribed by section 6 of the act of Congress of July 5, 1884.

I regret that you should have decided, as seems to be the case from your note, to give to that opinion the force of a law without first affording me an opportunity to lay before you the views of my Government upon a matter of so much importance to a large class of Chinese subjects. I trust, however, it may not yet be too late to submit



those views, and I beg to ask for them the unprejudiced consideration of yourself and the honorable the Attorney-General.

The Acting Attorney-General appears to have based his opinion, not upon any law passed by the law making power of the United States, but upon Article III of the treaty between China and the United States signed March 17, 1894. It is admitted that previous to the conclusion of that treaty, and for some time after the date of that treaty, it was held that under the laws now, as then, in force on this subject, the certificate of the Chinese consul in the foreign country was a compliance with section 6 of the act of 1884. This is forcibly stated by your predecessor, the Hon. Richard Olney, when acting as Attorney-General, and I am not aware that he changed his opinion after he became Secretary of State.

It is now contended that section 6 of the law was modified by the ratification of the treaty because of this provision in its Article III: "To entitle such Chinese subjects as are above described to admission into the United States they may produce a certificate from their Government or the government where they last resided, viséed by the diplomatic or consular representative of the United States in the country or port whence they depart." Section 6 of the law provided that in all cases the Chinese Government (through its consul duly empowered) should issue the certificate to *Chinese subjects* residing in foreign countries; and that only in cases where Chinese had become *naturalized subjects* of the foreign country was the government of that country to issue the certificate. Such was the legislative requirements enacted under the treaty of 1880, but it was found in practice that this requirement worked hardships, for there were considerable numbers of Chinese subjects residing in countries where there were no Chinese consuls. Hence, when the unratified treaty of 1888 was framed, it was agreed that this inconvenience should be overcome by authorizing, in the alternative, the issuance of such certificates by the Chinese consul as was then permitted by existing law or by the government of the foreign country where they (the Chinese) resided, and for that purpose the clause above quoted was inserted in Article III of that treaty, which was textually readopted and inserted in the treaty of 1884.

That such was the intention of the American as well as of the Chinese negotiators of the treaties is made manifest by the action of the Secretaries, Bayard and Gresham. After the ratification by the Senate of the United States of the treaty in 1888, a bill was introduced in Congress, doubtless at the instance of Secretary Bayard, and passed by that body, for the purpose of putting the treaty in operation, in which section 6 of the law of 1884 was reenacted almost literally, with the clause relating to the admission of Chinese other than laborers, who were required to "first obtain the permission of the Chinese Government or other government of which they may at the time be a citizen or subject." Certainly if Secretary Bayard understood Article III of the treaty to require all Chinese residing in foreign lands to obtain a certificate from the government where they resided, and not from the Chinese Government through its consul, he would have seen that such requirement was inserted in the law. So also it will be noted that after the treaty of 1894 was ratified a bill to carry it into operation was introduced in the Senate (No. 2309, 53d Cong. 2d sess.), which provided that section 6 of the act of July 5, 1884, was to be reenacted. The bill, I am informed, did not become a law

because it was held that the treaty did not repeal or affect the existing laws, which was an additional evidence that Article III did not modify section 6.

Moreover, Article III does not bear the narrow sense which it is attempted to put to it. It does not mean that, in the case of Chinese subjects resident in a foreign country, a certificate issued from that country only and no other can be sufficient; for if that had been the intention of the negotiators of the treaty, they would have made it clear by putting that such Chinese subjects must produce a certificate from their Government or, *if residing in a foreign country*, the government where they last resided, etc. It is plain, therefore, from the natural construction of the sentence that the option is left to such Chinese subjects of obtaining a certificate either from their Government or the government where they last resided. It is one of the rules of interpretation that a right once conferred on a person can not be taken away by implication without express and unequivocal provisions to that effect, much less by a narrow and one-sided construction, as it is attempted in the case under consideration; and, with all due deference to the Acting Attorney-General, I respectfully submit that his ruling should not be followed.

The slightest consideration must make it clear that the Chinese Government could not willingly consent to surrender the issuance of certificates by its consuls to its subjects in foreign lands, for they, better than the local authorities, would know the avocations, extent of business, and other details necessary to be set forth in the certificate; and they owe a responsibility to their Government which the authorities of the foreign government would not for the correctness of their certificates. Besides the opinion of the Acting Attorney-General would impose an unusual duty on the foreign government without its consent, and one with which neither the Government of China nor the United States can compel compliance. It is reasonable to conclude that the only cases in which it was contemplated by the treaty the foreign government should be expected to issue the certificates are where there are no Chinese consuls or where the person in whose behalf the certificate is issued is a subject of the country.

Having set forth the reasons why the opinion of the Acting Attorney-General should not be held by your Government to control and set aside the true intent of the treaty and the existing laws of the United States, I desire to embrace this occasion to convey to you the views of my Government upon another recent opinion of the Attorney-General, which, although it has not been communicated to me has been officially published (see Treasury Decisions, vol. 2, No. 3, July 21, 1898, pp. 99 to 101), and is being enforced; and which works a still greater injustice to the treaty and to Chinese subjects than the one just discussed. This decision is to the effect that only the classes of persons expressly named in the first clause of Article III of the treaty of 1894 are entitled to admission into the United States, and the Secretary of the Treasury has accordingly issued instructions naming a long list of professions and avocations for exclusion. I respectfully submit that this decision is directly in opposition to the treaties, to the laws of the United States, and to the whole history of events which gave rise to them.

The preamble to the treaty of 1880 shows that it was entered into at the request of the United States and the reason therefor is stated

to be "because of the constantly increasing immigration of Chinese laborers." In the first article authority is given to the Government of the United States whenever in its opinion "the coming of Chinese laborers \* \* \* affects or threatens to affect the interests of that country" to "regulate, limit or suspend *such* coming or residence." But it provides that "the limitation \* \* \* shall apply only to Chinese who may go to the United States as laborers, *other classes not being included in the limitation.*" Then follows in the next article the enumeration, which substantially appears in the treaty of 1894, as to "officials, teachers, students, merchants, or travelers for curiosity or pleasure." The treaty of 1894 in its preamble recites the object of the treaty of 1880, and gives as the reason for its amendment "the antagonism and much deprecated and serious disorders to which the presence of Chinese laborers has given rise." Thereupon it amends Article I of the treaty of 1880 under which the immigration of Chinese laborers could be suspended, but not absolutely prohibited, by authorizing their absolute prohibition for ten years; and it amends Article II as to Chinese laborers, under which they were "allowed to go and come of their own free will and accord," by restricting their return to the United States by the terms set forth in Article II of the new treaty. A provision, not found in the treaty of 1880, is added as to registration of "Chinese laborers;" but in no other respects is the treaty of 1880 modified or affected by the treaty of 1894, except as already stated respecting the certificate to be given to Chinese subjects residing in foreign lands. It repeats in Article III the recital of "officials, teachers, students, merchants, or travelers for curiosity or pleasure," but expressly states that their right of coming to the United States is under the status "at present enjoyed," that is, under the treaty of 1880.

Not only does the treaty and all the correspondence leading up to it show that the intention was to exclude Chinese laborers only, but the various laws of the Congress of the United States are in absolute confirmation of this intent. Section 6 of the acts of 1882 and 1884 refers to those who must produce the required certificate as "every Chinese person other than a laborer;" the penalty in section 2 of these acts imposed upon vessels only applies to the bringing of "Chinese laborers;" under the act of May 5, 1892, registration is only made obligatory as to "Chinese laborers;" and the act of October 1, 1888, known as the Scott Act, the most drastic legislation ever passed by Congress, was expressly limited to "Chinese laborers." Under these acts it never was held by the United States authorities that admission of the exempt classes was confined to those only who are recited in Article II of the treaty of 1889; and the present exclusion can not justly be based upon the fact of the recital in Article III of the treaty of 1894, for the same recital appears in the treaty of 1880. The force and effect of the legislation of Congress is well stated by the Supreme Court of the United States in its opinion in the case cited by the Attorney-General in his opinion, *Wan Shing v. United States* (140 U. S., 424-428), as follows:

"The result of the legislation respecting the Chinese would seem to be this, that no laborers of that race shall hereafter be permitted to enter the United States, or even to return after having departed from the country, though they may have previously resided therein

and have left with a view of returning; and that *all other persons of that race*, except those connected with the diplomatic service, must produce a certificate from the authorities of the Chinese Government, or of such other foreign Governments as they may at the time be subjects of, *showing that they are not laborers*, and have the permission of that Government to enter the United States, which certificate is to be viséed by a representative of the Government of the United States."

It thus appears by the declaration of this high tribunal that the only test to be applied to a Chinese seeking admission into the United States is whether or not he is a *laborer*. If the negative shall be established in the manner prescribed by the laws, to wit, by the production of the proper certificate, the person must be admitted. I feel it therefore my duty to protest in the most energetic but respectful manner against adding to the existing treaties any conditions not contemplated nor contained therein. It is most unreasonable to suppose that such was the intent of the negotiators. Did they contemplate the admission of students and the exclusion of scholars, when there are such in China of the most eminent attainments, philosophers worthy to rank with the distinguished savants of America or Europe? Did they propose to admit merchants, however small their business, and reject bankers, of whom there are many in China possessed of millions; and turn away brokers or commercial agents, of whom there are not a few in China managing the business of the largest commercial houses and banking companies of Europeans? Was it probable that they would provide for the admission and residence in the United States of tens of thousands of Chinese laborers and prohibit the entrance of physicians to care for them? Would they stipulate for the coming without limit of mere travelers, however lowly, for curiosity, and refuse the stay of noblemen or mandarins of high rank and station? To state these queries is to refute them. I feel sure the Attorney-General could not have considered the effect of his decision, and that he will, upon reflection, correct it.

But I am constrained to appeal to you, and through you to His Excellency the President, to place a check upon these limitations which are being added to solemn treaties by opinions and mere Treasury orders. I am sure you will agree with me that the Government of China has in the past thirty years shown itself most complaisant to the wishes and convenience of the United States. The treaty of 1868, negotiated by Secretary Seward, was supposed to mark a new era in the relations of the two great nations. But with the lapse of twelve years new conditions arose, and when a special commission was sent to Peking by the American Government, it was received with the highest honors, and the desires of the President were embodied in the treaty of 1880. Again, the experience of a few years made further restrictions desirable, and the treaty of 1894 was agreed to, but it was hardly put into operation before its provisions were attacked by the indirect means of domestic construction and interpretation, until it has become necessary to make this solemn protest. It is an undeniable fact that both the treaties of 1880 and 1894 had for their sole object the exclusion of *Chinese laborers*. I beg, therefore, to suggest that the present treaty be allowed to run its appointed period of ten years, in the spirit in which it was negotiated, and at the end of that period if your Government has further amendments or changes to propose,

you have the past conduct of the Chinese Government as surety that it will consider the proposals with fairness and a full regard to the local conditions and necessities of the United States.

Accept, etc.,

WU TING-FANG.

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*Mr. Hay to Mr. Wu.*

No. 75.]

DEPARTMENT OF STATE,

*Washington, January 4, 1899.*

SIR: Referring to your note No. 108 of November 7 last, expressing your views relative to the opinion rendered by the Attorney-General to the Secretary of the Treasury, dated August 31 last, regarding the authority under existing laws of consular officers of China in a foreign country to issue certificates prescribed by section 6 of the Chinese exclusion act of July 5, 1884, and expressing also your views relative to an opinion rendered by the Attorney-General to the Secretary of the Treasury, dated July 15 last, to the effect that only the classes of persons expressly named in the first clause of Article III of the treaty of 1894 are entitled to admission into the United States, I have the honor to inform you that a letter has been received from the Attorney-General on the subject, dated the 23d ultimo. In his letter the Attorney-General states that, while he is not able to perceive any valid reason for modifying the opinions referred to, he would be pleased, nevertheless, to have the question raised submitted to the courts for determination, if you are desirous that such a step should be taken, and that, upon a suggestion or request from this Department to that effect, he would proceed, in conjunction with the Secretary of the Treasury, to bring forward cases as soon as possible which would submit for judicial determination the questions covered by his opinions aforesaid.

In line with the Attorney-General's suggestion, I beg to request that you will favor me with an expression of your views as to his proposed action.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Wu.*

No. 79.]

DEPARTMENT OF STATE,

*Washington, January 23, 1899.*

SIR: Referring to our interview on the 14th instant, at which you desired me to ask the Attorney-General by what process cases of exclusion from the United States of Chinese subjects of the exempt classes, referred to in his letter of the 23d ultimo, could be brought before the United States Supreme Court for decision, I have the honor to inform you that I am in receipt of a letter from the Attorney-General of the 19th instant, answering the inquiry.

In his letter the Attorney-General says that the court could not be given jurisdiction upon an agreed statement of facts, but that a case in which the question arises will have to be taken through the various courts to the Supreme Court. He adds that he has written to the Secretary of the Treasury asking whether any case is now pend-

ing in which the questions are involved, and which might be brought to the Supreme Court for its decision, and that he would be glad to confer with the counsel of your legation upon the subject.

Accept, etc.,

JOHN HAY.

*Mr. Wu to Mr. Hay.*

No. 120.]

CHINESE LEGATION,  
*Washington, January 25, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, in which, replying to my note of November 7 last, you inform me that while the Attorney-General sees no valid reason for modifying the opinions which were the subjects of my note, he suggests that, should I be desirous that such a step should be taken, he would proceed, in conjunction with the Secretary of the Treasury, to bring forward cases for judicial determination of the questions involved in his cited opinions, and you thereupon request an expression of my views on the proposed action of the Attorney-General.

I thank you and your colleague, the Attorney-General, for the friendly disposition manifested in this communication, but I regret to have to say that I do not think the proposition is one concerning which it would be proper for me to express an opinion. My Government could not be a party to such a suit, nor could it appear, by counsel, before a domestic tribunal of the United States for the purpose indicated. While I have the highest estimate of the ability and impartiality of the Supreme Court of the United States, and for that reason would have confidence it would place the same construction upon the treaty which is maintained by my Government, at the same time the questions submitted by me to you in my note of November 7 last were of a diplomatic character, involving the construction of conventions entered into between two equal and sovereign Governments, and I could not, by any action on my part, recognize the competency of a domestic tribunal of one of the parties to take such action as would irrevocably bind the other party to the convention. If I am not misinformed, the Supreme Court of the United States has already decided, in what is known as the Scott Law Case, that if the Congress of the United States legislates in direct violation of the treaty, the courts of the United States must respect and enforce the legislation; but I understand it recognized in the same decision that such legislation did not release the Government of the United States from its international obligations under the treaty. And however much the courts may feel bound to follow the legislation of Congress, I apprehend you will not contend that adverse legislation or the judgment of a domestic tribunal can release a Government from its solemn treaty obligations.

It would be very gratifying to my Government to know that cases which had been brought forward by the administrative officers having charge of the enforcement of the stipulations of the treaty regulating the admission of Chinese subjects into this country had been decided in accordance with the intent of the high contracting parties in framing the treaty; and I can not believe that any legislation of Congress since the treaty of 1894 has been contrary to that intent and to the language of the treaty. Hence I feel sure if such cases were carried

up to the highest tribunal of this country that august body would coincide with the views set forth in my cited note; but, for the reasons stated, I trust you will not regard me as wanting in courtesy if I excuse myself from expressing an opinion on the course to be pursued by the executive and administrative officers of the United States with a view to testing the legality of their action.

While writing the above, I had the pleasure of receiving your note of the 23d instant, giving me the Attorney-General's answer to my inquiry as to the process by which cases of exclusion from the United States of Chinese subjects of the exempt classes could be brought before the United States Supreme Court for decision. As I have already given above an expression of my views on the subject, it is hardly necessary for me to say anything further in regard to the course indicated by the Attorney-General in submitting the questions raised to that august tribunal.

Accept, etc.,

WU TING-FANG.

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*Mr. Wu to Mr. Hay.*

No. 156.]

CHINESE LEGATION,  
*Washington, December 1, 1899.*

SIR: Under date of November 7 of last year, it became my duty to lay before you the views of my Government respecting two opinions of the Attorney-General upon the laws and treaties relating to the admission of Chinese into the United States. These opinions, in view of my Government, were in direct opposition to the true intent and meaning of the treaties, and neutralized their effect in important particulars to the serious injury of many Chinese subjects.

It is not my purpose at this time to repeat the reasons then given, which seemed to me conclusive, but in connection with the second opinion, discussed in my note relating to the persons included in the exempt class, I desire to add a fact not then noticed by me. I gave reasons to show that the opinion was in direct opposition to the understanding of the negotiators of the treaties between the two countries and to the spirit of the laws of the United States, and I now add that it is in direct opposition, also, to the previous rulings of the executive officer of the United States, who is charged by the laws with the enforcement of the treaties. The Secretary of the Treasury at that time, the Hon. John G. Carlisle, in the regulations of 1893, published for the enforcement of the laws of the United States respecting the Chinese, made the following declaration for the guidance of the officers of the United States: "No class of Chinese are prohibited from coming into the United States, or remaining here, except such as may properly and within the meaning of said statutes be known as 'laborers.'" (See series 7, No. 18, U. S. Internal Revenue, 1893, p. 9.)

It is needless for me to say to you that Mr. Carlisle is not only a statesman intimately acquainted with the spirit and policy of his Government, but that he is one of the first lawyers of his country. After the treaty of 1894 went into effect—that is, in 1896—new regulations were issued from the Department of the Treasury, signed by the Acting Secretary, the Hon. Charles S. Hamlin, to whose bureau Chinese matters especially belonged, and in which the declaration above quoted also appears, with this additional statement: "The per-

sons referred to in the acts of Congress to which these regulations apply, and whose immigration into the United States is prohibited, are limited to Chinese laborers." (See Regulations, 1896, p. 9.) Thus it will be seen that from the passage of the first exclusion act in 1882 until July, 1898, when the opinion of the Attorney-General above referred to was given, for a period of sixteen years the prohibition to enter the United States was distinctly confined to Chinese laborers only, other classes not being included in the prohibition—a uniform course of procedure long enough followed to establish a precedent and custom until it was suddenly set aside by the said contrary opinion.

In view of this conflict of opinion on the part of the highest officials of the United States, I think it my duty to repeat the request made in my cited note, that His Excellency the President would take cognizance of this question, and would investigate whether the terms of solemn treaties are not being distorted from their original purpose and their just interpretation, and whether relief may not be given to the Chinese subjects now suffering from the enforcement of the opinion of the Attorney-General.

If this can not be done, I respectfully request that you will take up with me for negotiation an additional clause of the treaty of 1894, to make clear and place beyond the cavil of any lawyer the true scope and meaning of Article III of that instrument. In view of the well-known intent of the negotiators of that treaty, and of the friendly sentiments which you entertain for my country, I make this request with much confidence and hope.

Accept, etc.,

WU TING-FANG.

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*Mr. Hay to Mr. Wu.*

No. 121.]

DEPARTMENT OF STATE,  
*Washington, January 5, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 1st ultimo, in which you express the view that the opinion of the Attorney-General, of July 15, last, respecting the exclusion from the United States of Chinese traders, is in direct opposition to the previous rulings of the executive officer of the United States who is charged by the laws with the enforcement of the treaties relating to the admission of Chinese to the United States.

As the matter relates to the duty of the Secretary of the Treasury under certain statutes, for the execution of which he is made the sole ministerial authority, and as the question whether and to what extent discretion in the execution of those statutes vests in the Secretary of the Treasury is one as to which the opinion of the Attorney-General may lawfully be taken, the President authorized me to submit your note of the 1st ultimo to the Attorney-General for an opinion upon the points raised by you.

I am now in receipt of the reply of Attorney-General Griggs, who, after exhaustive examination of the question presented reaches the following conclusions, which authoritatively mark and limit the power of the Secretary of the Treasury in determining the classes of Chinese entitled to admission into the United States under the existing treaties and laws.



The opinion of the Attorney-General, of July 15, 1898, to which you specially refer, holds that Chinese "traders" are not entitled to admission into this country under the treaties and laws, and by consequence that no Chinese persons are entitled to admission unless they fall within the classes marked out by Article III of the treaty of 1894, viz, officials, teachers, students, merchants, or travelers for curiosity or pleasure.

This view proceeds upon the theory that the true intent, purpose, and result of all the laws is that not only those Chinese should be excluded from this country who are particularly and expressly forbidden entrance, namely, Chinese laborers, but that only those may be admitted who are expressly allowed, namely, the classes marked out by Article III of the treaty of 1894 and those who necessarily are adjunct to those classes, such as the valid wife and legitimate minor children, or children of tender years, of a permitted Chinaman. The opinion of November 3, 1898, considered this proper exception and allowed it, while applying strictly to that case, upon original entry of such an applicant here, the certificate requirements of section 6 of act of July 5, 1884.

The treaty of 1868, in the articles relative to the present subject, recognizes the right and advantage of voluntary migration and change of allegiance "for purposes of curiosity, of trade, or as permanent residents." This seems to be the first indication of the ultimate phrase used. This view is expressed in order to reprobate the involuntary transportation of Chinese to this country under conditions amounting to slavery. This treaty also gave reciprocally the privileges, immunities, and exemptions as to travel or residence enjoyed by the citizens or subjects of the most favored nation. It seems likely that the significant phrase, viz, the one referring to classes or permitted people as originally indicated and as finally marked out, referred more aptly to American citizens who might desire to go to China than to Chinese subjects who might desire to come to this country; but the phrase, however it arose, has now become embedded in the law, and it is to be construed and the resulting permitted classes defined upon the language used.

Article II of the treaty of 1880 provided that Chinese subjects coming here as teachers, students, merchants, or from curiosity, with their body and household servants, and Chinese laborers then in the United States, might go and come of their free will, and should be accorded all the rights and exemptions accorded to citizens and subjects of the most-favored nation. Even under that language (without considering at present administrative construction) the Attorney-General submits that not all Chinese subjects, but those who are expressly delimited from other Chinese subjects, were giving the rights allowed. Subsequent to that treaty, legislation and decisions become more and more stringent upon the admission of Chinese. Not only was the entrance of laborers increasingly hedged about with safeguards and restricted, but they were finally denied admission on any terms. The act of 1882 provided *inter alia*, that "every Chinese person other than a laborer *who may be entitled* by said treaty and this act to come within the United States" should procure the identification certificate; the act of 1884 enlarged the certificate provisions, and among other things required the Chinese persons coming here, and so entitled, to obtain the permission of his own Government; the act of 1882 denied the previously recognized

right of Chinese persons to be admitted to citizenship upon naturalization proceedings; the act of September 12, 1888, which it is true failed to take complete effect, and perhaps to take any effect, because the then pending treaty upon which it was based was not ratified, marks out in section 2 the same definite series of classes of Chinese persons; the act of November 3, 1893, defines and restricts those who may be merchants in contemplation of the law, and, in short, in many ways this intervening legislation expressly, or by necessary implication, vindicates the theory upon which the opinion of July 15, 1898, proceeds; and in the main all this legislation was sustained as constitutional by judgments in the Supreme Court of the United States.

Attention is directed, in connection with the privileges and exemptions supposed to be conferred by the earlier treaties and to the marking out of the permitted classes by the later treaties, to the want in fact of any real mutuality, which constitutes partly the basis for Mr. Justice Field's dissenting opinion in the case of *Chew Hoong v. the United States* (112 U. S., 536, 560), and to which he refers on pages 567, 568.

Now, Article III of the treaty of 1894 again expressly states the privileged classes, and speaks of the right at present enjoyed by them. Surely this necessarily means that no such right is at present enjoyed by any other Chinese persons.

The article fully recognizes the certificate requirements of this Government, omits the reference in Article II of the treaty of 1880 to the body and household servants of individuals of the permitted classes, and omits the express grant of the rights and exemptions of citizens and subjects of the most-favored nations.

This being the conclusion as to the intention of Congress, and the real scope and purpose of the laws, the result is irresistible that the theory of the opinion in question is correct; namely, that only those expressly allowed may be admitted. The case of laborers required (and with good reason, as the administration of the Chinese-exclusion laws has shown) particular and exact denial, but those Chinese persons who are not laborers, and are not those of the permitted classes, are equally denied the right to enter. It is shown, in the opinion of the Attorney-General, that this does not conflict with the existing treaty, but is expressly recognized by it; and in any event, if it is the just meaning of the treaty and of the laws, it is to be sustained. Although treaty stipulations may seem to conflict, or may actually conflict, the Supreme Court decisions show clearly that while treaty obligations are to be regarded as a sacred compact, and are to be sustained if possible, they do not contain the ultimate decision of the question; otherwise a nation would not be sovereign and would not have the right, when conditions have changed and it becomes desirable and necessary, to exclude any class of aliens from its own territory. This the Supreme Court has recognized expressly in the Chinese cases which have come before it.

As to the decisions of the courts and departmental construction, it is admitted that there is authority in both for the contrary view. Chinese persons who were not laborers and yet were not of the permitted classes expressly or by necessary consequence of their calling or relation to persons who were of the permitted classes, have been admitted under decisions of the district courts or by Treasury rulings. It is true, in other words, that such rulings proceed upon the opposite theory of the law, that it is only necessary not to be a laborer; that the question is not whether an applicant is, for instance, a merchant,

but merely whether he is not a laborer. The bearing, however, and stress of the question was not fully perceived in earlier years, and the reversal of the previous view, which, however, did not universally and in all instances prevail, was determined upon after careful consideration of all the facts and all the law of the case, and no valid reason can now be perceived for receding from the position taken of modifying the present deliberate view of the Executive.

The question may, under the present aspect of a collateral law taken by district courts and circuit courts of appeal, be raised judicially, and ultimately be brought to the Supreme Court; that is to say, the lower courts hold that although the act of August 18, 1894, makes the decision of the appropriate customs or immigration officer final upon the application of an alien for admission, if the decision is adverse to the alien's right and is unreversed by the Secretary of the Treasury on appeal, nevertheless that if the alien disobeys this decision and eludes the customs officers and covertly comes into this country, then a new jurisdiction attacks under the law, namely, the jurisdiction before a United States judge or a United States commissioner, who may, upon such an alien's being arrested for being unlawfully within this country and taken before him, ignore the collector's decision, examine the whole subject *de novo*, and determine it upon the merits. The United States is opposing this view, but at present it is the prevailing view of the lower courts. Therefore, if a Chinese trader, for example, who was denied admission at the frontier by a collector, were afterward found in this country and taken before a district court for being unlawfully in the United States, the very question involved in your complaint would be raised and could be settled by orderly course of procedure up to the Supreme Court.

You make no specific complaint of the rule announced in the opinion of November 3, 1898, by which a certificate is required, upon first entry at least, of the wife and children of Chinese of the permitted classes. The question, however, has already been raised in the courts, and is now pending upon final appeal in the Supreme Court of the United States, and will doubtless be heard and decided at the present term.

In the latter case the preponderance of opinion in the lower courts and of departmental construction sustains the view of the Attorney-General.

Accept, etc.,

JOHN HAY.

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#### EXCLUSION OF LEI YOK, A CHINESE MERCHANT.

*Mr. Wu to Mr. Hay.*

No. 114.]

CHINESE LEGATION,  
*Washington, December 21, 1898.*

SIR: I have the honor to call your attention to the case of Lei Yok, a Chinese merchant, who has been detained by the customs authorities at New Orleans while on his way from Habana to San Francisco, notwithstanding the fact that he is provided with the proper certificate required by the Chinese-exclusion acts. I inclose copy of a letter from Mr. Li Yung Yew, consul-general at Habana, which gives the facts of the case.

The action of the customs authorities at New Orleans was, I am led to believe, in accordance with the instructions of the Treasury Department to refuse admission to all Chinese provided with consular certificates. I pointed out to you in my note of the 7th of November last that the narrow construction given by the Attorney-General to the treaty of 1894 in denying the power of Chinese consuls to issue certificates thereunder was entirely unsupported by external and internal evidence, and it is a great injustice to Chinese residents in foreign countries to change a practice of long standing (sanctioned by previous Secretaries of the Treasury and Attorneys-General) and require them to obtain other than consular certificates in places where Chinese consuls reside.

Now, Mr. Lei Yok is a bona fide merchant, and as such is entitled to enter this country. The certificate of identity he holds seems regular in every respect and to comply with the requirements of the exclusion laws. I have to request that you will kindly cause instructions to be issued, through the honorable the Secretary of the Treasury, to the collector of customs at New Orleans to release Mr. Lei Yok from detention and allow him to proceed to San Francisco without delay.

Accept, etc.,

WU TING-FANG.

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[Inclosure.]

Mr. Li to Mr. Wu.

CONSULATE-GENERAL OF CHINA,  
Habana, December 12, 1898.

SIR: I have the honor to state to your excellency that on the 6th of September last this office issued a passport, No. 1016, in favor of a Chinese subject named Lei Yok, of 21 years of age, a merchant for the last four years in Habana, at No. 21 Zanja street, where he is partner to the extent of \$3,000 in the Chinese firm of Tuck Chung Yuen, to enable him to leave the island on his way to San Francisco, Cal., where he is the proprietor of an establishment under the firm name of Tai Seng Tong, at 929 Dupont street.

He left Habana on the 11th of November by steamer *Whitney* for New Orleans, and on his arrival there the customs authorities refused to let him proceed on his journey to San Francisco, and he is still, as I am informed, detained in that city. As his passport was in due form, issued by me, and viséd by the British consul in behalf of the United States Government, and the statements therein correct, as I know, and the proper visé was obtained from the Spanish governor of the province I am unable to account for this detention, and I have, therefore, to beg your excellency to take such steps as may be advisable in your opinion to have the cause of Mr. Lei Yok's difficulties explained and, if possible, removed.

I am requested by his friends to petition your excellency to be pleased to obtain if possible telegraphic instructions on the matter to the customs authorities at New Orleans, so as to shorten as far as may be the detention of Mr. Yok.

I remain, etc.,

LI YUNG YEW,  
Chinese Consul-General at Habana.

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Mr. Hay to Mr. Wu.

No. 76.]

DEPARTMENT OF STATE,  
Washington, January 11, 1899.

SIR: Referring to your note of the 21st ultimo, in relation to the detention at New Orleans by the United States customs authorities

there of Mr. Lei Yok, a Chinese merchant, I have the honor to inform you that a letter has been received from the Secretary of the Treasury on the subject, dated the 3d instant, in which he says that admission to the United States was denied to Mr. Lei in accordance with the instructions based upon the opinion of the Attorney-General, dated August 21, 1898, wherein it was held that there is no authority in existing laws under which consular officers of China in foreign countries may issue to Chinese subjects of the exempt classes the certificates prescribed by section 6 of the act of July 5, 1884. With that opinion you are already familiar.

The Secretary of the Treasury adds that until the opinions of the Attorney-General as to the construction of the laws governing the operations of the Treasury Department are overruled by the courts they are necessarily controlling upon that Department, and that it is therefore impracticable to direct the collector at New Orleans to release Mr. Lei.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Wu.*

No. 80.]

DEPARTMENT OF STATE,  
*Washington, January 23, 1899.*

SIR: Referring to your note of the 21st ultimo, and to mine in reply of the 11th instant, in relation to the detention at New Orleans of Mr. Lei Yok, a Chinese merchant, by the United States custom authorities there, pursuant to the provisions of the Chinese exclusion acts and the Treasury instruction based on the opinion of the Acting Attorney-General of August 21, 1898, I have the honor to inform you that I am in receipt of a letter, dated the 19th instant, from the Attorney-General in acknowledgment of one from this Department, sending him for his information a copy of the correspondence in the case.

In his letter the Attorney-General says he finds no ground to reopen the question in the case.

Accept, etc.,

JOHN HAY.

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**STATUS OF CHINESE IN HAWAIIAN ISLANDS.**

*Wu Ting-fang to Mr. Hay.*

No. 110.]

CHINESE LEGATION,  
*Washington, December 12, 1898.*

SIR: I have the honor to bring to your attention the condition of the Chinese residents of the Hawaiian Islands, in view of the recent annexation of those islands to the United States.

At the time of that annexation there were residing in the Hawaiian Islands approximately 20,000 Chinese, who were established there in accordance with the laws of the Government, and under its protection and guarantee they had acquired various rights of person and property. By the terms of the joint resolution of the Congress of the United States, some of the most important of those rights have been suddenly suspended; and, if the policy therein declared shall be adhered to, an uncalled-for discrimination and manifest injustice will result to this large body of the population of the annexed territory. I can not allow

myself to believe that such has been the deliberate intent of the enlightened and liberal-spirited Congress of the United States; and actuated by this conviction I desire to bring to your attention, in the hope that you may see proper to lay the views of my Government before Congress, the situation of the Chinese residents of the Hawaiian Islands and the great injury and injustice which will be done them, if the provision of the joint resolution to which I have referred shall be embodied in the permanent legislation which is being contemplated by Congress.

By the laws and guarantees under which the Chinese population acquired residence in the Hawaiian Islands, they have been permitted to visit their native land and return, to bring to the island their families, to send their children home to be educated and their young men to be trained in mercantile pursuits, and to freely come and go as their business or convenience required. The statistics which I shall submit to you will show that a large number of the Chinese population have been born in the islands, and that a considerable number of those emigrated have become lawfully naturalized citizens of Hawaii. They also show that many of them have become holders of real estate, that they outnumber all other nationalities, native or foreign, as merchants and traders, and that in three of the leading branches of trade, as shown by the official licenses issued, they exceed all other nationalities. In social life, also, their position is worthy of consideration, as it will be seen that of the Chinese population over 6 years of age 48.47 per cent are able to read and write English or Hawaiian; of Chinese children over 6 years 92 per cent attend school, and many of them have been educated in the Government colleges and higher institutions of instruction; they are prominent in Christian churches, and in aiding in the support of hospitals and other charitable institutions; they freely intermarry with the native population; they are recognized as industrious, temperate, and law abiding, and as important factors in various social movements.

The reason which brought about the immigration treaty of 1880 between China and the United States, the treaty of 1894, and the legislation based on those treaties which exclude Chinese laborers from the United States, does not apply to the Hawaiian Islands. In this country it is alleged that Chinese labor comes in competition with white labor to the detriment of the latter, and that it is contrary to its interests to admit the Chinese; but exactly the reverse is the case in the Hawaiian Islands, as they come into competition with neither white nor native labor, and have been and are regarded there as a desirable population. Hence it seems unnecessary and unreasonable to extend to the islands the operations of the present exclusion laws prohibiting the coming to the United States of all Chinese laborers.

I have recently had occasion to call your attention to the unwarranted strictness of interpretation which has been given by the Attorney-General and the Secretary of the Treasury to the treaties and United States laws respecting the Chinese, by which the treaties have been so interpreted as to exclude from this country a large class of the highest and best of Chinese subjects. In view of what is herein shown to be the status of the Chinese population of Hawaii, it would be a serious aggravation of the complaint I have already thought necessary to present to you if the same interpretation should be applied to those islands.

I desire, further, to direct your attention to the fact that the line of policy indicated is an unnecessary discrimination against the Chinese race. They are not the only Asiatic people who do, or are likely to, come to the territories of the American Union. Does the Congress of the United States intend to declare that the Chinese are more objectionable or dangerous as neighbors or residents than the Japanese, the Malays, the Siamese, or other of the Asiatic peoples? Will they close the doors of Hawaii to the Chinese and allow freely the latter to enter these islands? Such a policy is hardly justified by the history of the Chinese nation, nor by the friendly disposition which the Imperial Government has constantly exhibited toward the United States.

I inclose you copies of a memorial<sup>1</sup> which the Chinese residents of Hawaii submitted to the United States Commission recently on a visit to those islands, and copies of a memorandum,<sup>1</sup> the former paper containing the statistics to which I have referred. In doing so I earnestly hope that Congress in its wisdom and sense of justice will see proper not to disturb the condition of the Chinese existing in the Hawaiian Islands at the time of the annexation, and that it will so legislate as to permit those of them who have there acquired citizenship and residential rights to enjoy those rights in all parts of the territory of the Union, and that Chinese will be allowed to enter those islands in the same way as other Asiatics.

Accept, etc.

WU TING-FANG.

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*Mr. Hay to Mr. Wu.*

No. 77.]

DEPARTMENT OF STATE,  
*Washington, January 13, 1899.*

SIR: Referring to our interview of the 23d ultimo, in which you set forth for the consideration of this Government certain complaints of ill treatment of Chinese subjects at the hands of the agent of the Treasury Department at Honolulu, I have the honor to inform you that I am in receipt of a letter from the Secretary of the Treasury, dated the 17th instant, in answer to mine of the 23d ultimo, bringing the matter to his attention.

In his letter the Secretary of the Treasury says that the regulations under which the agent of his Department at Honolulu has been operating were based on an opinion of the Attorney-General to the effect that the laws of the United States and the treaty with China relating to the exclusion of Chinese are under the provisions of paragraph 8 of the resolution adopted by Congress July 7, 1898, to be held applicable to Chinese persons applying for admission to the Hawaiian Islands.

The Secretary of the Treasury adds that since the receipt of my letter his Department has been advised of the tenor of a decision recently made by the supreme court of Hawaii which may necessitate a further consideration of the subject; that a copy of the decision will be sent to the Attorney-General, and that a full reply to my communication will therefore be deferred until that officer can be consulted in the premises.

Accept, etc.,

JOHN HAY.

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<sup>1</sup> Not printed.

*Mr. Wu to Mr. Hay.*

No. 127.]

CHINESE LEGATION,  
*Washington, February 18, 1899.*

SIR: Referring to my note of the 12th of December last, in which I called your attention to the condition of Chinese residents of the Hawaiian Islands, and the great injury and injustice which would be done them by excluding them from those islands, I have the honor to add a few more observations on the subject in view of the proposed action of the American Congress to extend the present Chinese-exclusion laws to those islands.

I have before me a copy of the report from the Senate Committee on Immigration amending the bill (H. R. 11247) to extend the anti-contract labor laws of the United States to Hawaii, and recommending its passage, in which I find that the acts to prohibit the coming of Chinese persons into the United States, approved May 5, 1892, and November 3, 1893, are to be extended to and over the island of Hawaii and all adjacent islands and waters of the islands ceded to the United States by the Government of Hawaii and accepted by the joint resolution of Congress, approved July 7, 1898, so far as such laws may be applicable. It is well known that the above-mentioned acts require all Chinese laborers to take out certificates of residence or forfeit their right to remain in the United States. But the Chinese laborers in Hawaii could not take out the prescribed certification of residence at the time when those acts were passed, and there is no means provided for their taking out such certificates now. It seems unjust to make the enjoyment of the right to remain in those islands, to which the Chinese laborers now there are clearly entitled, dependent upon the fulfillment of a condition manifestly impossible.

I am informed that there are about 200 Chinese who hold permits from the Hawaiian Government entitling them to return to the islands. To the validity of these permits the faith of the Hawaiian Government was pledged. As by the annexation of those islands the Government of the United States acquires all the rights and assumes all the obligations of the Hawaiian Government, it seems to me that the Government of the United States is at least morally bound to recognize the permits issued by the proper authorities of Hawaii. The extension of the exclusion laws to Hawaii would deprive those Chinese of their undoubted right to reenter those islands at a single stroke, and I hope that further consideration will deter the Government of the United States from a step that involves the faith of the nation.

Before concluding these remarks, permit me to make a suggestion. The immigration and contract-labor laws of the United States now in force seem to me stringent enough to keep out the undesirable elements of every foreign community from the country. The extension of these laws to Hawaii, without the enforcement of the Chinese-exclusion acts, would serve as an effectual bar to the further coming to those islands of the objectionable class of Chinese, as well as that of any other people, and if they should be found insufficient, more stringent provisions might be enacted provided they be made applicable to all foreigners. All that my Government asks is that the immigration of Chinese into the territory of the United States be placed on a common footing with other nations. To single out the Chinese alone for exclusion from the islands is to lower the whole nation in the eye of the



world, particularly if there is no discriminating legislation against any other Asiatic people. I feel confident that the Government and Congress of the United States after due consideration will admit the justice of the position taken by my Government.

I beg to lay these observations before you now with the request that you will kindly bring them to the attention of His Excellency the President and the Congress of the United States, to the end that the rights of the Chinese residents of the Hawaiian Islands may not be impaired by the adoption of any legislation affecting them.

Accept, etc.,

WU TING-FANG.

*Mr. Hay to Mr. Wu.*

No. 88.]

DEPARTMENT OF STATE,  
*Washington, February 24, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, presenting additional observations on the subject of the proposed extension of the present Chinese-exclusion laws of the United States to the Hawaiian Islands.

I have sent copies of your note to the Committee on Foreign Relations of the Senate and to the Committee on Foreign Affairs of the House of Representatives, for their information and consideration.

Accept, etc.,

JOHN HAY.

*Mr. Hay to Mr. Wu.*

No. 92.]

DEPARTMENT OF STATE,  
*Washington, March 1, 1899.*

SIR: Referring to your note of the 18th ultimo, presenting further observations on the condition of the Chinese residents in the Hawaiian Islands, and alleging that injury and injustice would be done them by the legislation proposed in the bill to extend the present Chinese-exclusion laws to the islands, I have the honor to inform you that I am in receipt of a letter from Mr. Hitt, chairman of the Committee on Foreign Affairs, in reply to my letter of the 24th ultimo, sending him a copy of your note, wherein he says that the bill prepared by the Hawaiian Commission to provide a government for the Territory of Hawaii, and which he introduced into the House of Representatives on the 6th of December last, provides in the one hundred and fifth section (the one hundred and second as amended) that Chinese in the Hawaiian Islands may have one year in which to obtain certificates of residence.

Mr. Hitt adds that the bill has not been acted on by the House, and that owing to the lateness of the session and the condition of the public business it is doubtful whether it will be enacted during this Congress.

Accept, etc.,

JOHN HAY.

*Mr. Hay to Mr. Wu.*

No. 93.]

DEPARTMENT OF STATE,  
*Washington, March 11, 1899.*

SIR: Referring to your note of the 18th ultimo, and to previous correspondence, on the subject of the extension to the Hawaiian Islands of the Chinese exclusion laws of the United States, I have the honor to inform you that in a letter to this Department dated the 2d instant, inclosing a copy of a recent opinion on the subject given by the Attorney-General, the Secretary of the Treasury adopts the views held by that official that the provisions of the joint resolution providing for the annexation of the islands, to the effect that "there shall be no further immigration of Chinese into the Hawaiian Islands except upon such conditions as are now or may hereafter be allowed by the United States," should be construed so as to apply only to actual additional immigration, namely, the coming of Chinese into the islands for the first time after annexation, and not to the return thither of Chinese who have lawful residence there and are simply exercising the recognized right of returning to their business and their homes after a temporary absence.

Under the opinion, it is also held that Chinese women and children presenting permits issued under the laws of Hawaii prior to the receipt by the Hawaiian Government of the Treasury regulations transmitted to it through the special agent of the United States on November 12 last may be admitted to those islands by virtue of such permits, and that other Chinese permits of the Hawaiian Government, issued in the same manner prior to the receipt by that Government of the regulation just mentioned, entitling them to sojourn for a temporary period in the islands, should also be admitted thereto.

Instructions in harmony with these views were sent on the 27th ultimo by the Treasury Department to Chinese Inspector Brown at Honolulu, and the special agent of the United States at that place was instructed, on the 9th instant, to send to the Government of Hawaii a copy of the letter of the Secretary of the Treasury, together with a copy of the opinion of the Attorney-General, for the information and guidance of the customs officers of the islands, with the information that the Treasury regulations sent through him on November 12 last are modified in accordance with the opinion of the Attorney-General and the instructions of the 27th ultimo to Chinese Inspector Brown.

Accept, etc.,

JOHN HAY.

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**STATUS OF CHINESE IN PHILIPPINE ISLANDS.**

*Mr. Wu to Mr. Hay.*

No. 122.]

CHINESE LEGATION,  
*Washington, February 3, 1899.*

SIR: Referring to the several conversations I have had with you upon the subject of Chinese residents in the Philippine Islands, now that the treaty of peace between the United States and Spain has been concluded ceding those islands to the United States, I beg to ask, for

the information of my Government, what policy the United States Government intends or is likely to adopt in dealing with the question of Chinese immigration to the Philippines.

I bear in mind that this treaty has not yet been put in full operation, awaiting a due exchange of ratifications, but the authority of Spain has been withdrawn from the islands, and the military authorities are now in actual possession of Manila, where the most numerous and important Chinese interests are located, and these authorities, as I understand, are preparing to occupy and control the rest of the territory. Hence my Government deems it a proper time to bring the question of the status of the Chinese resident in and doing business with these islands to your attention, with a view to securing a recognition of their just rights and interests during the military occupation and when the Government of the United States shall come to legislate upon the future administration of these islands.

It is doubtless well known to you that for centuries very intimate and important relations have existed between China and the Philippine Islands, owing to their contiguity and the favorable trade and industrial conditions. The commercial intercourse between the cities of southern China and these islands has been and is now quite extensive, and the Chinese population resident there is very large, engaged in every walk of life. There are innumerable artisans, farmers, traders, merchants, bankers, and persons of large wealth, in fact, business men of every legitimate character. Many of these are native-born, of which a considerable portion are the offspring of marriage with the Philippine races, and the manners, customs, and characteristics of the people of the islands are so much in harmony with those of the Chinese that the latter for many ages have met with a hearty welcome and have fraternized readily with them. During this long period and up to the present there has existed free immigration and unrestricted commerce.

For these reasons, and because of the deep interest the Imperial Chinese Government takes in the continuance of these relations, I am led to address you and to ask that nothing shall be done by the authorities of the United States to disturb these relations or to abridge the rights and privileges so long enjoyed by Chinese subjects in this territory recently acquired by your Government. The treaties of 1880 and 1894 clearly show that their object was to restrict and regulate the coming of Chinese subjects into the territory of the United States on the North American Continent because of the peculiar existing labor conditions. In any event the treaties could not be made to apply to the Philippines, and the cause which occasioned them not having existence in those islands, there would seem to be no occasion to enforce the policy there either by military or Congressional action. If a policy of exclusion is adopted there, should the United States in its wisdom extend the practice of territorial expansion, for instance, to Siam and Annam, the Chinese might also be excluded from those countries.

Trusting that the foregoing views will meet with the approval of your Government and that the Chinese residents of the Philippines will not be made to suffer any abridgment of their rights and privileges because of the extension of American sovereignty over them,

I avail, etc.,

WU TING-FANG.

*Mr. Hay to Mr. Wu.*

No. 86.]

DEPARTMENT OF STATE,  
*Washington, February 6, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of February 3, in which you ask, for the information of your Government, what policy the United States Government intends or is likely to adopt in dealing with the question of Chinese immigration to the Philippine islands, particularly during the period of military occupancy of those territories.

The subject is having the most careful consideration of this Government, but until the military occupancy of the United States, now confined to certain limited areas, is extended, and until fuller consideration can be given to the matter in the light of the inquiry to be forthwith set on foot by the Philippines Commission, which has been appointed to investigate the condition of the islands, I shall be unable to make definite response to your inquiry.

I shall send a copy of your note to the presiding officer of the Philippines Commission for his information.

Accept, etc.,

JOHN HAY.

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*Mr. Adee to Mr. Wu.*

DEPARTMENT OF STATE,  
*Washington, August 18, 1899.*

MY DEAR MR. MINISTER: Before the Secretary went away he informed me of your conversation with him on July 27, when you stated that you had received a telegram from the Chinese consul-general at Manila to the effect that the Chinese exclusion laws of the United States were being put in operation in the Philippines against immigrants from China, and inquired whether this report was true, and, in that case, whether it was a result of the settled policy of the United States Government or a measure adopted by the General in the exercise of his discretion as commander in chief of the forces in the Philippine Islands.

Upon inquiry through the War Department, I learn by a telegram from Major-General Otis that the Chinese exclusion act is practically in force, except as to the methods for personal identification, for which other convenient methods, suitable to the special conditions in that quarter, have been adopted.

It is the opinion of the War and Treasury Departments that the enforcement of the Chinese exclusion act is incident to the military administration of the Philippine Islands during a state of hostilities therein, and therefore without prejudice to the future action of Congress in permanently extending the laws of the United States to such territory; so that, while it seems appropriate and desirable not to interfere with the discretion of the military commander in that quarter, the measure he has adopted should not be regarded as in pursuance of a settled policy on the part of the United States Government.

From an examination of the papers sent to me by the Secretary of War, it seems that the regulations under which the military authorities have prohibited the entrance of Chinese into the Philippine

Islands have not undergone material modification since the promulgation of Major-General Otis's order of September 26, 1898, with the provisions of which I presume you are familiar.

From later report, dated April 1, I learn that only such Chinese as are in good health and who have been residents of any of the provinces of the Philippine Islands are permitted to land in Manila, Iloilo, and Cebu, the only three open ports of the archipelago; that they must in every case present to the captain of the port or his deputized official on their arrival a consular certificate from the port of embarkation; that this certificate can only be issued upon a personal examination, and after careful inquiry upon the part of the consul, thereby assuring himself that the Chinese applicant is qualified, under the law, to engage passage to Manila. On being released from the vessel, and being allowed to land in cases where the certificate is found to be regular, all Chinese must at once register at the Chinese consulate, paying a registration fee, a hospital fee, and the cost of landing from the steamer with baggage—usually about 50 cents in Mexican money. The Chinese refusing to register, or who are known to be deported criminals, are not allowed to land, while in the event of the certificate they bear being fraudulently issued they are sent back to the port of departure by the steamer which brought them.

I am, etc.,

ALVEY A. ADEE.

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*Mr. Wu to Mr. Hay.*

CHINESE LEGATION,  
*Washington, September 1, 1899.*

MY DEAR MR. SECRETARY: I have the honor to acknowledge the receipt of the Department's note of the 18th of August last, relating to the extension of the Chinese exclusion acts by the military authorities to the Philippine Islands. I read with not a little surprise that the regulations under which the military authorities have prohibited the entrance of Chinese into the Philippine Islands have been in operation for nearly a year, for this is the first time that my attention has been called to any order issued by the military authorities on the subject. I shall be much obliged if you will kindly furnish me with a copy of Major-General Otis's order of September 26, 1898, to which Mr. Adee refers in his note, together with a copy of the regulations providing for the admission of certain classes of Chinese into the islands.

Very truly, yours,

WU TING-FANG.

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*Mr. Hay to Mr. Wu.*

DEPARTMENT OF STATE,  
*Washington, September 4, 1899.*

DEAR MR. MINISTER: I have had the honor to receive your note of the 1st instant, acknowledging this Department's communication of the 18th of August last, relating to the exclusion of Chinese from the Philippines by order of the military authorities.

In reply to your request it gives me pleasure to send you inclosed copies of Major-General Otis's order of September 26, 1898, excluding Chinese from the islands, with certain specified exceptions, and of Major-General Otis's report dated April 1, 1899, showing the rules followed by customs officials at Manila in the matter of Chinese immigration.

The circumstance you mention, that the existence of General Otis's order of September 26, 1898, was first brought to your knowledge by Mr. Adee's personal note of August 18 last, indicates that the military measure adopted by him had worked without friction or hardship, and this deduction is confirmed by the advices telegraphed by General Otis in the early part of last July, that past difficulties existing between Chinese consuls and different Chinese ports were being harmonized, and that any change from existing methods was not recommended.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

MANILA, September 26, 1898.

\* \* \* \* \*

*Admission of Chinese.*

The laws of the United States which prohibit the entrance of Chinese will be enforced here.

The exceptions are:

Chinese laborers, skilled or unskilled, formerly resident in Manila and temporarily absent therefrom, will be allowed to return upon proper proof of such previous residence, which may be made by presentation of a Spanish cedula or certificate of the American consul of the port from which the returning Chinese have sailed.

The closest scrutiny of such cedula and certificates is enjoined, and in doubtful cases the collector of the port will require them to be supported by an additional proof, and no Chinaman of whatever nationality will be permitted by him except upon conclusive proof of previous residence.

There will be exempted from the above restrictions the parties named in article 3 of the convention between the United States of America and the Empire of China, published in Supplement to the Revised Statutes of the United States, volume 2, pages 155-157, to wit, Chinese officials, teachers, students, merchants, or travelers for curiosity or pleasure. The coming of these classes of Chinese will be permitted upon production of a certificate from their Government, or the government where they last resided, viséed by the diplomatic or consular representative of the United States in the country or port whence they depart, supplemented by such further proof as is required in section 6 of an act of Congress approved July 5, 1884.

All Chinese entering the port shall register at the office of the Chinese consul or consular agent.

It is also directed that the following regulations shall govern the return to this port of Chinese laborers, skilled or unskilled, residents of Manila, who leave this port after this date:

Every such Chinese laborer will, before his departure from this port, report to the collector of customs or his deputy, who will enter in the registry to be kept for that purpose the name of such laborer, his age, occupation, physical marks or peculiarities, and such other facts as may be deemed necessary for the purpose of identification.

Said collector or his deputy will furnish to every such departing Chinese laborer a certificate to be signed by such collector or his deputy, which certificate shall set forth all the facts shown by the registry book above mentioned, corresponding with said registry in all particulars.

The certificate herein provided for shall entitle such Chinese laborer to whom the same is issued to return to and reenter this port upon producing and delivering the same to the collector of customs of said port, and said certificate shall be the only evidence permissible to establish his right of reentry; but said certificate may be controverted and the fact therein disproved by the United States authorities.

Upon delivering such certificate by such Chinese laborer to the collector of customs at the time of reentry into this port, said collector shall cause the same to be filed in the custom-house and duly canceled.

By command of Major-General Otis, military governor:

CHARLES A. WHITTIER,  
*Brigadier-General, United States Volunteers, Collector of Customs.*

[Inclosure 2.]

*General Otis to the Secretary of War.*

OFFICE OF THE UNITED STATES MILITARY GOVERNOR  
IN THE PHILIPPINE ISLANDS,  
*Manila, P. I., April 1, 1899.*

SIR: In reply to your letter of February 20, calling for a report on the subject of the position taken by customs officials at Manila in the matter of Chinese immigration, I have the honor to report as follows:

Only such Chinese as are in good health and who have been residents of any of the provinces of the Philippine Islands are permitted to land in Manila, Iloilo, and Cebu, the only three open ports of the archipelago.

They must in every case present to the captain of the port or his deputized official on their arrival a consular certificate from the port of embarkation. This certificate can only be issued upon a personal examination and after careful inquiry upon the part of the consul, thereby assuring himself that the Chinese applicant is qualified under the law to engage passage to Manila.

Should it be proven upon the arrival of the passenger that this permit was fraudulently issued, the steamer bringing him must take him back, the steamer looking for relief to the consul issuing such certificate. On being released from the vessel and being allowed to land (in cases where certificate is regular) all Chinese at once register at the Chinese consulate, paying a registration fee, a hospital fee, and the cost of landing him from the steamer with his baggage, usually 50 cents, Mexican money. Any Chinese refusing to register or any who are known to be deported criminals are not allowed to land.

On departing from Manila the captain of the port issues a passport to the departing passenger only after he has purchased a ticket for his destination and presents with this ticket, to the above-named official or officer deputized by him, the permit to leave granted by the Chinese consulate. This passport is delivered to the passenger on board the steamer within a few hours of the sailing time. No Chinese passenger departing is allowed to leave the steamer after this passport has been delivered to him.

Very respectfully,

E. S. OTIS,  
*Major-General, United States Volunteers, Military Governor.*

*Mr. Wu to Mr. Hay.*

No. 148.]

CHINESE LEGATION,  
*Washington, September 12, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant and to thank you for inclosing for my information, in accordance with my request, a copy of the order of the American military commander of the Philippine Islands of September 26, 1898, applying the laws of the United States relative to the exclusion of Chinese laborers to those islands, and also a copy of his report of April 1, 1899, showing the manner in which said order is being enforced.

In your kind note transmitting this information you remark that "the circumstances you mention, that the existence of General Otis's

order of September 26, 1898, was first brought to your knowledge by Mr. Adee's personal note of August 18 last, indicates that the military measure adopted by him had worked without friction or hardship, and this deduction is confirmed by the advices telegraphed by General Otis in the early part of last July, that past difficulties existing between Chinese consuls and different Chinese ports were being harmonized and that any change from existing methods was not recommended."

With the utmost respect and with the highest regard for the courtesy and frankness which have always marked your intercourse with this legation, I desire to qualify in some respects the foregoing statement. As long ago as the latter part of last year rumors began to reach me from different sources that an attempt had already been made to enforce the Chinese exclusion laws in the Philippines. You will doubtless recall the fact that at that time I went to the State Department for more definite information, and I understood from the representations made to me then that the Department had no information that anything had been done in that direction. But the rumors continued to come to me from various sources, and, in view of them, I felt it my duty to send you my note of inquiry of February 3 last. Your response of the 6th of the same month was very welcome to me, for it left in my mind the impression that nothing up to that time had been done on the subject, and that it would not be solved by your Government until after the Philippine Commission had made its report. If in your note you had given me information of the order of General Otis of September 26, 1898, I would at that time have felt it my duty to enter the solemn protest which it is my unpleasant task to discharge in the present note. You can imagine my surprise when, after receiving a month ago a cablegram from the Chinese consul-general at Manila complaining of the enforcement of the United States exclusion laws and asking me to take steps to have them withdrawn, and after my call upon you for information at that time, I received Mr. Adee's note of the 18th ultimo to the effect that the exclusion laws had been practically enforced in the Philippine Islands since September of last year.

I can not believe that you intend in your note of the 4th instant to convey the impression that the fact of the existence of General Otis's order having been brought to my attention officially for the first time by Mr. Adee's note of the 18th ultimo, notwithstanding my frequent previous inquiries on the subject, is an evidence that the military order had worked without friction or hardship. The communication to the Department of the rumors that had come to me and the anxiety which I had displayed must have convinced you that such orders could not be satisfactory to my Government nor to its subjects. Neither can I understand that this fact would justify the conclusion that such a sudden and severe order would not work hardship upon the Chinese in the Philippines, who for many generations had been a numerous people there and had maintained free and unrestricted intercourse with their own country and established large commercial relations with it.

And I regret to add that I can not agree with you in finding a confirmation of the deduction that the order has worked without friction or hardship in the advices telegraphed by General Otis in July last that past difficulties with the Chinese consuls were being harmonized. As I informed you in my visit on the 27th of July last, which was after the date of General Otis's advices, the Chinese consul-general at



Manila had cabled me protesting against the military order and urging that I obtain its withdrawal. The fact is that while I did not have official information of the order till it was communicated in Mr. Adees's note, and upon its receipt was surprised at its date, at the same time my information led me to fear that the rights and interests of the Chinese subjects in the Philippines were being greatly interfered with by the military authorities, and I was doing all that was possible to obtain official information and to correct the friction and hardships.

Having been officially informed of the existence and enforcement of the military order of September 26, 1898, applying the Chinese exclusion laws of the United States to the Philippine Islands, I now present to you, and through you to the President and Congress of the United States, the most earnest and solemn protest of the Imperial Chinese Government against the existence and enforcement of the order as contrary to international law and comity, in violation of the spirit of existing treaties, and in utter disregard of the friendly relations which should exist between the two Governments.

I protest against it, first, because it is not warranted as a military measure. It has never been alleged and can not be established that the Chinese population in the Philippines have been inimical to the occupation of these islands by the Government of the United States. It can not be shown that their presence in the Islands has in any measure interfered with the progress of military movements. On the contrary, it is understood that they have welcomed the advent of American authority and have rendered valuable assistance in the military movements.

I protest against it, secondly, because it is a departure from the announced policy of the President, to leave the status of the newly acquired possessions unchanged (except as required as a measure of military necessity, which is not so in the present case) until Congress shall determine the relation they shall sustain to the United States. This is plainly indicated in the note which you kindly sent me on February 6 last. Such has been the course pursued as to Porto Rico, which maintains toward the United States no change, except as called for by the military situation.

I protest against it, finally, because it is a great injustice to a numerous body of Chinese subjects, and will disturb the friendly relations which should be maintained between the Governments of China and the United States. In my note of February 3 last, I explained to you the circumstances under which the Chinese residents in the Philippines had grown to be a numerous people; that for centuries they had maintained with those islands very intimate and important relations; that during this long period there had existed free emigration and unrestricted intercourse; that among them were innumerable artisans, farmers, traders, merchants, bankers, and persons of large wealth; that many of these were native born and intermingled by marriage with the Philippine races, yet maintaining extensive social and commercial relations and intercourse with the southern provinces and ports of China. I need not dwell upon the evil effects, the hardships and injustice which will be done by a sudden stoppage of this intercourse. In the same note I pointed out the fact that the reasons in the labor question which influenced the adoption of the exclusion laws for the United States do not exist in the Philippines, and that it is illogical to apply them to that territory.

It is hardly necessary for me to recall past history to show how friendly have been the relations of the two great countries which face each other on the Pacific Ocean, and the disposition which the Imperial Government has manifested at all times to maintain and increase these relations. When by the fortune of war the United States were brought into much nearer proximity, my Government has seen in this event an additional reason why these friendly relations should become more intimate and harmonious. It can not be that the President of the United States, with his exalted sense of justice and his earnest desire to promote good will among the nations, will allow a military commander to continue to enforce an unjust and cruel measure against so large a body of peaceful inhabitants, which can not fail to disturb the intercourse with a neighboring nation which desires to continue and enlarge their cordial relations with each other.

While it is my disagreeable duty, Mr. Secretary, to make this solemn protest against the order of General Otis, I appeal to you, and through you to the President of the United States, in the greatest confidence to cause this order to be withdrawn or suspended, at least until the Congress of the United States shall have determined the policy to be adopted for the new possessions.

Accept, etc.,

WU TING-FANG.

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*Mr. Wu to Mr. Hay.*

No. 152.]

CHINESE LEGATION,  
*Washington, November 15, 1899.*

SIR: I have heretofore had occasion to address you respecting the condition of Chinese subjects in and resorting to the Philippine Islands, and I regret that I have now to add to these very serious complaints a new one of an enlarged and aggravated character. I am informed by cablegram just received from the imperial consul-general at Manila that not only the laws of the United States as to the restriction of Chinese immigration are applied in those islands in all their strictness, but that they are also enforced against merchants and others of the exempt class, and that only those who have been former residents are permitted to land. I inclose herewith a copy of the cablegram referred to.

I feel it my duty upon this occasion to renew the protest which I presented to you on this subject in my note of September 12 last, remains unanswered by your Department, and in the most solemn manner to enter the protest of my Government against this new act of the United States military commander, which I feel sure you will agree with me is in direct violation of treaty stipulations and unwarranted by any law of the United States.

I have to ask that instructions be sent to Major-General Otis to cease the violation of the treaty of 1894 by the exclusion of merchants and others of the exempt classes mentioned in article 3 of said treaty. I trust that I can rely upon you to exert your good offices to induce the Secretary of War to give instructions to General Otis to this effect, even if as a war measure it may be deemed expedient to temporarily exclude Chinese laborers from the islands, which, however, I respectfully submit no special circumstances have arisen to call for.

Accept, etc.,

WU TING-FANG.

[Inclosure.]

*Translation of a cablegram from the Chinese consul-general at Manila to the Chinese minister at Washington, dated November 15, 1899, and received the same day.*

Recently all Chinese, whether laborers or merchants, coming (to Manila) by vessels are subjected to investigation. Former residents only are permitted to land. Commencing from to-day Chinese leaving port are required to be photographed before being granted return permits by customs officials. These restrictions work hardship. Please protest.

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*Mr. Hay to Mr. Wu.*

No. 115.]

DEPARTMENT OF STATE,  
*Washington November 17, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant protesting against the alleged action of the military authorities of the United States at Manila in refusing to permit the landing there of Chinese subjects exempted by the treaty of 1894 between the United States and China, and requesting that Major-General Otis be instructed to the end that such exempted classes be permitted to land.

A copy of your note has been communicated to the Secretary of War.

Accept, etc.

JOHN HAY.

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*Mr. Hay to Mr. Wu.*

No. 119.]

DEPARTMENT OF STATE,  
*Washington, December 5, 1899.*

SIR: By my note of the 17th ultimo I informed you that I had communicated to the Secretary of War a copy of yours of the 15th of that month, in which you protest against the alleged action of the military authorities at Manila in refusing to permit the immigration to the Philippine Islands of the subjects of China, exempted by article 3 of the treaty of 1894, between the United States and China.

I have now the honor to inform you that I am advised by the Secretary of War that the classes of Chinese subjects mentioned by you as being prohibited by the orders of the military authorities of the Philippine Islands from entering the territory are specially excepted in the order of the military governor in the following language:

There will be exempted from the above restrictions the parties named in article 3 of the convention between the United States of America and the Empire of China, published in supplement to the Revised Statutes of the United States, volume 2, pages 155-157, to wit: Chinese officials, teachers, students, merchants, or travelers for curiosity or pleasure. The coming of these classes of Chinese will be permitted upon production of a certificate from their Government, or the government where they last resided, viséed by the diplomatic or consular representative of the United States in the country or port whence they depart, supplemented by such further proof as is required in section 6 of an act of Congress approved July 5, 1884.

The Secretary of War has invited the attention of the military governor to your note and directed him to instruct the officers of the custom-houses in the Philippine Islands to permit no violation of article 3 of the treaty between the United States and China.

Accept, etc.,

JOHN HAY.

*Mr. Wu to Mr. Hay.*

No. 158.]

CHINESE LEGATION,  
*Washington, December 14, 1899.*

SIR: I have great pleasure in acknowledging the receipt of your note of the 5th instant, in which you convey the welcome intelligence that the order of General Otis does recognize the right under treaty and the laws of the United States of the exempt class of Chinese to enter the Philippine Islands, and that the Secretary of War has called the attention of the commanding general to the complaint in my note of the 17th ultimo, and had instructed him not to permit any violation of the treaty.

I thank you for this renewed manifestation of the desire on your part to cause the treaty stipulations between the two nations to be observed, and I shall take pleasure in communicating the same to my Government. I beg, however, to recall to your attention the views set forth in my previous note respecting the exclusion of Chinese laborers from the Philippines, and particularly to my note of September 12 last, and to express the confident expectation that, with the happy prospect of the early establishment of peace and order, the military necessity which seems to have influenced the commanding general to issue the order of exclusion will soon cease to exist, and that the Chinese population and intercourse will be restored to the condition which existed for so many years previous to the American occupation of the islands.

Accept, etc.,

WU TING-FANG.

## COLOMBIA.

### CLAIM OF PANAMA STAR AND HERALD VS. COLOMBIA.

*Mr. Uhl to Mr. McKinney.*

No. 89.]

DEPARTMENT OF STATE,  
*Washington, February 13, 1895.*

SIR: I inclose for your information copy of Department's No. 1, of the 11th instant, to the Colombian chargé d'affaires ad interim at this capital, in regard to the claims of the Panama Star and Herald against the Government of Colombia.

I am, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

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[Inclosure.]

*Mr. Gresham to Mr. Rengifo.*

No. 1.]

DEPARTMENT OF STATE,  
*Washington, February 11, 1895.*

SIR: I have the honor to inform you that my attention has been recently called by the attorney for the Star and Herald Company to the claim of that company against the Colombian Government for the suppression of its paper at Panama in the year 1886.

From an examination of the documents and correspondence in this Department relating to the claim, it appears that the Star and Herald was a newspaper established at Panama, owned and published by an American company. By special decree of the President of Colombia it was excepted from the operation of the general decree which suspended the publication of all newspapers in the Republic from September, 1885, to March 13, 1886. The granting of this special decree was coupled with the expression of a hope, which may be construed as an injunction, that strict circumspection as to political subjects would be observed by the publishers.

On March 6, 1886 (one week before general liberty of the press was reinaugurated), the President of Colombia, by a telegram from Bogota, ordered Gen. Santo Domingo Villa, the civil and military chief of the Department of Panama, to warn the Star and Herald to desist from censure, and if it persisted, to suppress it. What "censure" the paper had been guilty of does not appear.

On March 26, 1886 (two weeks after the general reestablishment of the liberty of the press), Gen. Santo Domingo Villa issued an order suspending the publication of the paper for sixty days from that date. He assigned as reasons (1) unfriendliness evinced by the paper toward the Government on more than one occasion during the last civil war; (2) the recent order from Bogota directing its suspension; (3) its failure to give an account of recent important administrative acts of the Government; and (4) its refusal to publish certain documents sent the editor, and the latter's failure to answer a private note transmitted to him with the documents.

The only specific charge against the paper was that last recited; that is, its failure to publish certain documents transmitted to it by General Vila, with a private note to the editor. The documents referred to were telegrams preferring a charge of smuggling against General Montoya, a brother officer of General Vila; and the note of the latter, transmitting them to the editor of the Star and Herald, merely suggested that he might publish them if he saw fit to do so.

On April 2, 1886, the Government at Bogota, having heard of the suspension, telegraphed to General Vila, remonstrating against the severity of his decree, and

requesting him out of regard for the Government of the United States to reduce the period of suspension from sixty to twenty days. On April 5 General Vila replied that he would do no act to disturb the friendly relations between the two Governments, but he nevertheless continued the suspension in force.

The Colombian Government seems to have given the matter no further consideration until May 17, 1886, when our minister at Bogota (Mr. Jacobs), having made earnest remonstrances on the subject, a telegram was sent General Vila censuring him and ordering him peremptorily to reestablish the *Star and Herald*. General Vila thereupon requested the appointment of a successor to himself, but the appointment was not made. On May 24, 1886, General Vila was again ordered to reinstate the paper or surrender his office; and the next day he replied, remarking that the full term of suspension fixed by him had expired, and tendering his resignation. The resignation was accepted and a new appointment made.

When this Government was first informed of the suspension, and before all the facts as they have been above recited were known, it was unwilling to believe that the act was that of the Colombian Government itself. The American minister at Bogota (Mr. Jacobs) was therefore instructed to call the attention of that Government to what was supposed to be the unauthorized act of General Vila. He was directed "to ask of the Colombian Government either the frank disavowal of the act of its agent and the stern rebuke and punishment of Gen. Santo Domingo Vila for this reprehensible excess of authority, or the assumption of responsibility for his acts."

In the course of this instruction it was observed that if the suspension were decreed by authority of the Government at Bogota, "this" would "merely transfer to the executive national power at Colombia the responsibility of wanton injury to the rights and property of American citizens;" and it was finally intimated that the Colombian Government might be liable to the persons injured by General Vila's acts, even though it did not authorize, but disavowed them. A copy of this instruction from the Department to Mr. Jacob was delivered to the Colombian minister for foreign affairs in June, 1886.

On June 10, 1887, the Department transmitted to Mr. Maury, then the American minister at Bogota, for presentation to the Colombian Government, the memorial of the *Star and Herald* Company, claiming from that Government an indemnity of \$91,000. The amount claimed, this Department then said, was reasonable and just, and even a much larger amount might have been regarded as not unreasonable, considering the wanton interference with rights under the protection of treaty, and the unwarrantable resort to violence instead of the guaranteed channels of the law.

The Colombian Government suggested that the claim be submitted to a special commission, the appointment of which had been proposed, for the arbitration of American claims growing out of the last civil war in Colombia; and subsequently that Government expressed to Mr. Maury the opinion that, unless the claimants would accept the arbitration desired by it, they should proceed for redress against General Vila personally in the Colombian courts.

This Government thought, and so informed that of Colombia, that this claim, resting on principles somewhat different from the others, should be adjusted without reference to the method to be adopted for their settlement. Colombia then proposed that the negotiations in the case should be conducted at Washington, and during the month of December, 1888, some correspondence passed between this Department and Mr. Hurtado looking to an interview on the subject of claims. No record or memorandum of any interview regarding this claim is found in the Department.

The next correspondence, and the last on the subject, is that between the Department and Mr. Hurtado in 1890. Mr. Blaine, in his notes of January 31 and May 7 of that year, called Mr. Hurtado's attention to this case, observing that the claimants had received no redress; that "such redress, it is thought, should now be tendered;" that this Government earnestly "desired a settlement of the case, and hoped it might soon receive a proposition looking to its adjustment."

Mr. Hurtado, in reply, stated that from interviews with Mr. Blaine's predecessor he had been led to suppose the United States would not press this claim diplomatically unless the claimants should first proceed against General Vila personally in the Colombian courts and those courts exonerate him from liability. He announced his Government's position to be that it is under no liability to the claimants, because, as it is said, that Government distinctly disavowed General Vila's action. The only recourse of the claimants, Mr. Hurtado suggests, is against General Vila personally in the Colombian courts, and in support of this position reference is made to article 35, paragraph 4, of the treaty of 1846. That paragraph is as follows:

"If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same, and

the harmony and good correspondence between the nations shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation."

The long period which has elapsed since the receipt of Mr. Hurtado's last note seemed to call for the foregoing review of this case. Replying now to that note, I beg to say I can not admit that Colombia has exonerated herself from liability to the claimants by disavowing the act of General Vila, or that the claimants can be required to proceed ineffectually against him in the Colombian courts before asking indemnity from his Government. I beg to call your attention to the fact that although the Government at Bogota knew of the suspension of the *Star* and *Herald* a very few days after it took effect it did not denounce the act as being in excess of General Vila's authority. It merely requested him to reduce the period of suspension from sixty to twenty days. It did not concern itself further to see that this request was complied with, nor did it give General Vila any peremptory order to reinstate the paper until May 17, when the suspension had already been fifty-one days in force. Even then it took no steps to enforce its order by dismissing General Vila, but permitted him to remain in command and continue the suspension in force until it expired by the terms of his own decree of March 26 previous. Then, and not till then, his resignation was accepted.

That the suspension was the act of the Colombian Government, and not the mere unauthorized act of General Vila, appears likewise from the President's telegraphic order to him of March 6, 1886, directing him to suppress the paper if it did not cease from censure, thus manifestly giving him discretion in the premises. The suspension was also admitted to have been the act of the Government, and was defended as being justified by the political state of the country in a note from Mr. Restrepo to Mr. Jacob of April 30, 1886. It was again acknowledged to have been the act of the Government, and sought to be justified, in a note from Mr. Restrepo to Mr. Jacob of May 17, 1886; and in this note Mr. Restrepo argued that the United States, if placed in the same position as that of Colombia toward the *Star* and *Herald*, would have taken similar measures.

In the face of these facts and admissions it is impossible for the Colombian Government to deny that the suspension of the claimant's paper was authorized by it or to assert that it was the mere personal act of one of its citizens within the meaning of the treaty provision cited by Mr. Hurtado. Nor was any specific charge ever made against the paper which, even if established in proper judicial proceedings, would have justified its suspension. But there was no judicial proceeding or inquiry. The suspension was an entirely arbitrary act of executive power, and that no political emergency justified it is proved by the fact that the general decree restricting the liberty of the press had been rescinded two weeks before the date of General Vila's order of suspension.

This Government can not believe that Colombia, on a reconsideration of the whole matter, will deny its liability to make the claimants a fair indemnity. The amount of the indemnity is another question. Although \$91,000 has heretofore been asked, with the approval of this Department, the claimants announce their readiness to accept a compromise offer approximating what is right.

This Government feels itself entitled to expect such an offer from your Government at an early day and to insist that this matter, already so long delayed, be brought to a satisfactory conclusion.

Accept, etc.,

W. Q. GRESHAM.

*Mr. Renjifo to Mr. Olney.*

[Translation.]

LEGATION OF COLOMBIA,  
*Washington, D. C., June 11, 1895.*

MR. SECRETARY OF STATE: I have the honor to refer to the polite note of your honorable Department of the 11th of February of the current year, signed by your worthy predecessor, the late Hon. Walter Q. Gresham, in reply to one which, under date of May 9, 1890, was addressed to the Hon. James G. Blaine by the minister of this legation, Señor Hurtado, denying that any responsibility could accrue to the Government of Colombia on account of the suspension of the newspaper entitled the *Star* and *Herald*, published at Panama, which

was effected by General Santo Domingo Vila, civil and military chief of the Isthmus, inasmuch as the said act was not only not approved by the Government of Colombia, but it was decidedly disapproved by it, and occasioned the removal of the said General Santo Domingo Vila from the high post he occupied.

As the note to which I refer not only endeavored to refute the reasoning and arguments set forth by this legation in support of the freedom of my Government from fault and its consequent lack of responsibility in regard to the suspension of the newspaper in question, but indicated that the claimant is willing to accept a compromise which the Government of Colombia pay, propose reducing the sum of \$91,000 at which originally, with the approval of your honorable Department, the damages caused by the said suspension were estimated and for which claim was therefore made against my Government, I have thought it my duty to advise it of the above, furnishing it with a copy of your note, in order that it may give me precise instructions, and I shall proceed to do so by the next mail. As soon as I obtain an answer from my Government on the subject I shall have the honor to acquaint you with it.

I hope that the honorable Secretary will kindly excuse the delay of my reply to the note of the honorable Department of the 11th of February, on account of this legation having been virtually closed during my absence from this country the last four months.

With sentiments of the most distinguished consideration,

I have the honor, etc.,

JULIO RENJIFO,  
*Chargé d'Affaires ad interim.*

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*Mr. McKinney to Mr. Olney.*

No. 182.]

LEGATION OF THE UNITED STATES,  
*Bogota, July 30, 1896.*

SIR: I have the honor to forward herewith a translation of the report of the minister of foreign affairs of the Republic of Colombia so far as it relates to the Star and Herald claim. \* \* \*

If his statements regarding the practice of nations and international law were adopted, nations would have few claims against other nations, as a simple disavowal of acts committed by the authorized agents would relieve them of all responsibility.

He also evidently gives a forced interpretation to article 35, section 4, of the treaty of 1846.

The minister has promised soon to communicate with this legation regarding the Star and Herald claim. \* \* \*

I am, etc.,

LUTHER F. MCKINNEY.

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[Inclosure.]

*Translation of the report of the minister of foreign affairs regarding the claim of the Star and Herald.*

More than fifty years ago a citizen of the United States founded, in Panama, the newspaper Star and Herald.

As time passed, the enterprise came to be the property of A. Boyd, who, having married a Colombian, left, when he died, Colombian children, who inherited the



printing establishment and the newspaper. These children had always lived in Panama as natives of the country, with the same rights and obligations that other citizens of Colombia possessed.

Desiring, without doubt, to remove themselves from the obligations of our laws, they went to New York, and there, after taking the steps they believed to be necessary, they formed a corporation to represent the paper and at once converted it into American property, although the industry was carried on in Colombia in such a way that it was not possible for the business to be conducted elsewhere.

The proceedings of the Boyds was irregular, incorrect, and illegal, and consequently does not bind the Colombian Government. At that time, probably on account of not having a knowledge of the actions of the said Boyds, our authorities made no protest in the case.

However that may be, the paper continued its course with all the claims of a foreign enterprise, yet constantly discussing our political questions, taking part in our debates, taking interest in local questions, and even on one occasion advocating the separation of the Isthmus of Panama, and at all times influenced by our civil strifes.

In 1886 Gen. Santodomingo Vila, at that time civil and military chief at Panama, issued a decree by which he suspended the publication of the paper for the term of two months.

In accordance with the laws that ruled at that time in Colombia, and recognizing the civil war that was in progress, the decree of the civil and military chief would not have been irregular if he himself had not guaranteed some days before the absolute liberty of the press, which gave the case an exceptional character and produced a certain amount of injustice. When the National Government received information of what had occurred, it disapproved of said decree and ordered at the same time that the suspension of the paper should not be carried into effect.

Owing to the lack of speedy communication caused by the war the orders of the Government were not duly carried out, and as the military and civil chief manifested a certain disinclination to comply with them, because he believed he had a right to adopt such proceedings, the Government was therefore obliged to accept the resignation offered on this account.

According to the practice of nations and international law, no government is responsible for the acts which its agents may perform if their proceedings are not to be found in perfect conformity with the powers which the laws confer upon them or with the orders and instructions which the Government has communicated to them.

If they should proceed in accordance with the laws or with the orders and instructions of the Government, their acts are legal, and consequently bind the nation. But if, disobeying the laws or legal instructions, they should adopt some procedure or take some measure that is beyond their powers, their acts are illegal, arbitrary, and make them personally responsible for the consequences.

In order that the acts of its agents should make the Government responsible, it is necessary that the following conditions should exist:

First. That the Government should have known in time the illicit acts that its agents pretended to commit and had not desired to impede it.

Second. That having had the necessary time to impede the effects of the acts of its agents, it has not done what is necessary to frustrate these efforts.

Third. That after having received information of the act committed, it has not disapproved the act of the agent nor dictated measures to impede the repetition of like abuses.

Fourth. That the Government ratifies or adopts the said act.

This doctrine is expressly recognized in the treaty of the 12th of December, 1846, between this Republic and the United States. Article 35, section 4, reads as follows:

"If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation."

When the owners of the Star and Herald made their protest to the Government on account of the suspension of the paper, they presented as a conclusive reason that the decree of the civil and military chief was illegal, so that, without knowing it, they applied the case to the doctrine contained in the treaty of 1846. If the decree were not illegal, the protest as made was not admissible, and if it were legal, the case comes under point 4 of the treaty above.

In order that the case should not come under the above point 4 of the treaty, it would have been necessary that the Government should have ratified or approved the decree or that it should be found under some one of the points to which I have referred that are common to the legislation of all constitutional countries.

The Government not only disapproved said decree, but accepted the resignation of the civil and military chief for not having complied with the order communicated to him that the suspension of the paper should not be carried into effect. This implies a punishment placed upon the agent, and so the demand for indemnification should be made not against the Government, but against the individual; whatever might be the authority with which he was invested, because he exceeded his authority, and for this they should appeal to the courts of Colombia.

It should also be noted that the proprietors of the Star and Herald appeared to comply with the order for the suspension of the paper, but it is also true that they eluded its effects, printing and circulating freely the paper under another name (The Telegram), which was a continuation of the Star and Herald. The same form, paper, type, advertisements, make-up, published in the same office, and sent to the same subscribers, show that the owners wished to make it understood that it was the same paper, and they adopted that title which was the same as the second edition of the New York Herald; consequently the enterprise suffered no loss or injury on account of the suspension of the paper.

So much was this so that, when the term of suspension of the Star and Herald expired, it appeared anew under its old name, and the Telegram disappeared without anyone knowing that its circulation had diminished. Nevertheless the reclamation appeared very soon. In May of 1886 his excellency the minister of the United States presented to our foreign office strong manifestations regarding the matter. In June, 1888, the memorial of the Star and Herald Company was presented, claiming from the Colombian Government an indemnity of \$91,000.

The negotiations were removed to Washington, and in 1888 our minister, Mr. Hurtado, had a number of conferences with the Secretary of State, from which he drew the conclusion that the claim would not be sustained by the American Government, "at least while the subject remained in its present condition and aspect; that is, until the courts of Colombia declare that the act of Gen. Santodomingo Vila was within the limits of his legal authority."

In January, 1889, the Secretary of State directed a note to Mr. Hurtado asking anew for some solution of the case. In May, 1890, he sent another communication in the same sense. Our minister replied on the 9th of May, 1890, repeating what he had already said to the Secretary verbally and in writing, and giving his reasons for believing that the Government of Colombia was not responsible to the claimant.

After a long silence the Department of State directed a note to our chargé d'affaires in Washington, General Renjifo, dated February 11, 1895, in which, after stating the origin and state of the reclamation, a reply was given to the note of our minister, Mr. Hurtado, dated May 9, 1890, and reviewing in all its parts the said reclamation, concluding with the statement that "although formerly they had demanded \$91,000, with the approbation of this Department, the claimants manifested that they were ready to accept an offer of a compromise approximating to what might be just in the case."

This note was dated the 11th of February, 1895, but on account of the civil war our chargé d'affaires, General Renjifo, who was at the time in the Cauca on a military commission, did not receive it till the month of July of the same year, on his return to Washington. In the meantime Mr. McKinney, envoy extraordinary and minister plenipotentiary to Colombia, directed a note to this ministry calling up the same subject and manifesting that the claimants were ready to accept a compromise. My honorable predecessor manifested to Mr. McKinney that, as the subject was being treated in Washington, it was logical and convenient to continue to treat it in that capital, as General Renjifo would soon arrive there.

In a note of the 15th of April of this year, this ministry informed General Renjifo of certain important data that had been received from divers sources, and from which the following conclusions were drawn:

That the Star and Herald Publishing Company was organized in the State of New York in the year 1884 or 1885; that the company had not paid the annual taxes to the State of New York since 1890 or 1891. Not having complied with the laws of the United States in regard to these annual payments, it has lost all right of protection from the United States.

The president of the company was Mr. Spies, a commission merchant in New York, who failed in September or October, 1893, and terminated his life by suicide.

The vice-president was Frederick Boyd, a native and resident of Panama, consequently a citizen of Colombia, as also his brother, Mr. Samuel Boyd, who was manager in the Isthmus from the organization of the company until 1892, when the company appointed J. Hollander, and some months afterwards Mr. W. Benedicto.

The enterprise failed, and all its goods in Panama, as well as the right to publish both papers, were sold at public auction by the second civil judge of the court in June,

1893, and bought by its actual owner, Mr Gabriel Duque. In order to present and push a claim which the company had against the Government of Colombia, the president, Mr. Spies, gave a power of attorney to Mr. L. Myers, a lawyer resident in Philadelphia. In consequence of Mr. Spies's death, in 1893, Meyers's powers have ceased, and consequently he has no legal rights in the matter.

The enterprise having failed, and all that it possessed having been sold in 1893, the product of the sale should have been divided among the creditors, but as this was not done, the injured parties have a right to make a claim in the courts of Colombia.

Knowing the spirit of equity and justice that animates the Government of the United States, there is abundant reason to believe that this claim will produce no unfavorable results.

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*Mr. McKinney to Mr. Olney.*

No. 200.]

LEGATION OF THE UNITED STATES,  
*Bogota, November 28, 1896.*

SIR: I have the honor to herewith transmit to the Department a copy of a letter from the minister of foreign affairs in the *Star and Herald* case.

I have replied to the same, informing this Government that I have submitted the matter to your Department for further instructions, and have informed the minister that we can not accept the statement that the Government is not responsible for the acts of its agents; that the point he refers to in the treaty of 1846 applies only to private citizens, and not to officers or agents of the Government. It is a fact that the proprietors of the *Star and Herald* continued to publish their paper during the time the decree was in force, under another name but the same form, and that the actual loss to the company was nominal. I shall soon be in Washington, and will then give you full information on the subject.

I am, etc.,

LUTHER F. MCKINNEY.

[Inclosure.]

*Mr. Holguin to Mr. McKinney.*

BOGOTA, November 10, 1896.

SIR: I have the honor to refer to your excellency's note of the 7th of last July, in which you inform me that your Government has ordered you to request an immediate solution of the *Star and Herald* Company's claim. As your excellency will have seen in the report I had the honor to present to Congress upon the opening this year, this department has been actively engaged in gathering together all data which could be useful in clearing up the matter, and only awaited the arrival of certain documents from Panama before replying to your excellency's polite communication.

Your excellency says that if my Government agrees to take the matter into consideration the claimants will accept a reasonable offer.

Permit me to observe to your excellency that the principal question for the Government is not precisely the sum total of the amount claimed, but the nature of the claim. The Government can not accept the change of nationality of an individual enterprise born in Colombia, which belongs to Colombian citizens, and which is allied in such a manner to our territory that its existence outside of Colombia can not be imagined.

The *Star and Herald* enterprise, founded more than fifty years ago by a citizen of the United States, became later, as your excellency knows, the exclusive property of M. A. Boyd, an Irishman, who claimed American citizenship and who married a Colombian, and left, upon his death, Colombian sons residing on the Isthmus, heirs to the property of the journal.

It first occurred to the Colombian proprietors of the *Star and Herald* in 1884 or 1885—that is to say, when it was patent to all that civil war was about to break out—that they could escape the jurisdiction of the Colombian laws by nationalizing their enterprise in the United States. To this end they established in New York an anonymous society to represent the journal, and as soon as certain formalities had been gone through with they converted it into a North American enterprise; but in doing this they acted in an irregular, incorrect, and illegal manner, which the Government can in no case accept. Notwithstanding the pretended change of nationality, the journal constantly continued to mix itself in our political strifes like any organ of our press and, entering upon forbidden ground, came out in favor of the separation of the Isthmus.

Our authorities, ignorant, doubtless, of what the owners of the *Star and Herald* had done in New York, did not at that time present the corresponding protest, but this involuntary silence does not signify that the Colombian Government has at any time considered as legitimate the change of nationality by a simple resolution of the owners of an industrial enterprise which is the exclusive property of Colombian citizens, and which, by its special conditions, by its permanent situation in the country, resembles landed property. If this change of nationality is not admitted in commercial enterprises, still less can it be accepted in those of an industrial character such as the *Star and Herald*. But there is more. The acceptance of the Government of the proceeding of the Messrs. Boyd would be the authorization of the other journalistic enterprises of the Republic to be nationalized in any way in other countries in order to present diplomatic claims whenever the Government applies the laws in regard to the press which it may deem fit to enact in accordance with its undeniable right. Like the *Star and Herald*, the political newspapers would have citizens' rights for interfering in interior politics and the privilege of foreigners for eluding the responsibility which their conduct might cause. This exceptional situation can not be admitted by any government, and, indeed, the most civilized countries do not grant foreigners the privilege of directing and publishing political journals, because this industry falls by nature within the class of privileges which foreigners can not enjoy.

But even admitting, for the sake of argument, that the *Star and Herald* Company really had at that time North American nationality, the claim would still be unfounded. The claim originated in 1886, as a result of a decree of the civil and military chief of Panama, Gen. Santo Domingo Vila, prohibiting the publication of the said journal for two months. In view of the abnormal condition of the Republic at that time, the decree of the civil and military chief would have been perfectly correct if he himself had not granted a few days before the absolute liberty of the press.

The National Government, considering this proceeding somewhat unjust, disapproved the suspension decreed by Gen. Santo Domingo, and as this gentleman showed himself but little disposed to revoke his order of suspension, the Government was obliged to accept his resignation. In acting thus the Government relieved itself of all responsibility, if it ever had any, for, according to the practice of nations and national legislation, no government is responsible for the acts of its agents or subalterns which are not in perfect accord with the faculties conferred upon them by law or the instructions which the government itself may have given them. For a government to share with its agents the responsibility of acts of this nature it would be necessary that, having been able to avoid them, it had not done so; that once accomplished, it had not attempted to frustrate their effects; that it had not disapproved the conduct of the agent; in a word, that it had ratified or sanctioned them in some manner. None of the above exceptions are applicable to the case of the *Star and Herald*. The Government upon learning of the act accomplished attempted to frustrate its effects, ordering the civil and military chief of Panama to remove the prohibition of the paper, and when Gen. Santo Domingo declared that he would stand by his decree or hand in his resignation, the Government chose the latter, which shows a formal disapproval of the conduct of the civil and military chief in the matter under discussion.

If there is any responsibility, it must not be exacted from the Government, but from the functionary who exceeded the powers with which he was invested through the courts of Colombia.

As is understood by the treaty of December 12, 1846, between Colombia and the United States, article 35, section 4, of which says: "If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation."

The proprietors of the *Star and Herald*, upon complaining to the Government of

the suspension of the paper, qualified the decree of Gen. Santodomingo Vila as illegal. If the claimants themselves admitted its illegality, it could not compromise the Government unless the Government had sanctioned it. It is evident, however, that the contrary occurred, whereupon the claim has no foundation. I also call your excellency's attention to the fact that if the editors of the Star and Herald pretended to obey the order of suspension, they really laughed at it, eluding its effects by printing and publishing the same journal under another name (The Telegram), which had a large circulation.

An examination of the numbers which appeared of this publication, and their comparison with those of the Star and Herald which preceded its suspension and with those which appeared immediately after the order of suspension had been revoked, show clearly the identity of the two papers. The size and kind of paper, the printing types, the distribution of matter, the advertisements of a permanent character, the office where the paper was printed, all was the same in both papers.

The editors, far from desiring to hide this, gave it to be clearly understood by adopting the title of the Evening Edition of the New York Herald.

Immediately upon the termination of the decree of suspension of the Star and Herald, the Telegram disappeared because there were no longer grounds for its continuance. There was, therefore, no paralyzation of work in the enterprise, nor were its interests injured. Therefore the prohibition of General Santodomingo, even considering it unjust, can not serve as a foundation for a claim for damages; it is an act that constitutes at most "injuria absque damnum." As before stated, the owners of the Star and Herald naturalized their enterprise in the United States when civil war was about to break out in Colombia, a fact which aggravated the irregularity of their proceedings before the Government of the country. In seeking the protection of the United States they acted wholly for their own interests, for the moment they felt sure that peace was assured in Colombia they ceased to pay the annual quota to the State of New York as they were obliged to do.

After the organization of the company in the United States, Mr. Spies, a commission merchant of New York State, was chosen president, who failed in 1893 and ended by committing suicide. The vice-president was Mr. Frederick Boyd, a native of Panama, residing on the Isthmus and consequently a Colombian citizen, as is his brother Samuel, who was manager on the Isthmus from the organization of the canal company until 1892.

Upon the failure of the enterprise all its property in Panama, as well as the privilege of publishing both papers, were sold at auction by the second circuit court, and bought in 1893 by Mr. Gabriel Duque, the present owner. To present and hasten the claim against the Colombian Government, Mr. Spies gave a power of attorney to Mr. Leonard Myers, a resident lawyer of Philadelphia; after the death of Mr. Spies the power of attorney appears to have become null and void. In view of this data it occurs to me to ask who the person is who has the legal authority to support the claim of the Star and Herald in its character of an American enterprise? This Department, having confidence in the high spirit of justice which animates your excellency, does not doubt that in view of the foregoing considerations and data your excellency will understand the reason which prevents the Government from accepting the claim of the Star and Herald, and its desire to put an end to the matter which has been largely discussed for several years; so much the more when those who think they have a right to claim may appeal to the courts of the country, who will do them justice. Before closing permit me to rectify your excellency's statement that my predecessor in this Department informed you that if the interested parties desired to make a reasonable reduction in the sum claimed the Government would take the matter into immediate consideration. This Department has always held the same opinion in regard to the value of the claim. Your excellency gave, doubtless, too much importance to a private question of my predecessor made from a different reason from what your excellency supposes, and Mr. Saurez took care to present to your honorable legation a categorical explanation of the true meaning of his words.

I reiterate, etc.,

JORGE HOLGUIN.

[Inclosure 2.]

*Mr. McKinney to Mr. Holguin.*

LEGATION OF THE UNITED STATES,  
*Bogota, November 28, 1896.*

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 10th of the present month relating to the claim of the Panama Star and Herald.

I will at once transmit the same to the Department at Washington for their con-

sideration and wait their further instructions. Permit me, however, to call your excellency's attention to some points in the communication referred to, in which I think your Department has fallen into involuntary error.

In my letter of July last on this subject I did not refer to the communication of Mr. Saurez when I said your excellency's Government had expressed a desire to take up the case if the claimants would make a proper reduction in their claim. In the month of May, 1895, Mr. Uricoechea, in a private interview, after I had written him on the subject, said the Government was ready to take up the case and bring it to a conclusion if the claimants would make a reasonable proposition, which he expected should be much more favorable to the Government; that it was desirable to settle the matter without diplomatic action, and asked that the case be continued in Washington between the Department of State and the Colombian minister. On the 10th of May, 1895, I forwarded these facts to the Department of State. As the Colombian minister failed to reply to communications on the subject, the Department ordered me to take up the case again from this legation.

I desire also to refer to the statement in your excellency's note that the Government is not responsible for the acts of its agents except under certain conditions; I must most respectfully differ on this point, as the Government must under all circumstances be responsible for the acts of Government officers or authorized agents; otherwise there would be no redress that would be adequate in case the citizens of either country were wronged by agents of the Government.

The point you refer to in the treaty of 1846 applies only to private citizens, but not to officers of the Government. If your excellency's interpretation of the treaty was admitted, then any commander of an American man of war, while in a Colombian port, taking offense at the authorities, might shell a city and destroy it, but his Government would not be held responsible because he in so doing had exceeded his authority and must be held personally responsible for the act.

Such an interpretation of treaties and international law would be dangerous in the extreme, and could not be submitted to by the nations.

I take this opportunity to reiterate, etc.,

LUTHER F. MCKINNEY.

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*Mr. Olney to Mr. Sleeper.*

No. 259.]

DEPARTMENT OF STATE,  
*Washington, February 24, 1897.*

SIR: I duly received Mr. McKinney's dispatch No. 200, of November 28, 1896, inclosing a copy of Minister Holguin's note of November 10, 1896, and of his reply in relation to the claim of the Panama Star and Herald against the Government of Colombia.

This note of the Colombian minister is virtually a repetition of his report upon that claim, a copy of which was forwarded to the Department on July 30, 1896.

Its conclusions of law are utterly at variance with well-established principles and can not be seriously considered, while the statement of facts therein contained are contradicted by the entire history of the case. The pretense that the suppression of the Star and Herald was the act merely of Governor Santo Domingo Vila, for which he, personally, should be held responsible, and not the Government of Colombia, has been denied in every instruction sent by this Department, and you will please inform that Government that this contention will not be again considered.

Secretary Bayard on May 15, 1886, directed a protest against the suppression of this American newspaper, holding Colombia responsible for the acts of General Vila, its civil and military governor of the national department of Panama, who, as subsequently shown, was also a secretary of state duly commissioned for that department. That the suppression was allowed to continue its full term and that the act was

wrongful are among the admitted facts in the case. Secretary Blaine on January 31, 1890, in his letter to Minister Hurtado, said:

Although that action was manifestly arbitrary and wrongful, and has never been defended, the suspension was permitted to continue for two months. It was attended with serious detriment, not only to the rights of the company under the treaty as an American corporation, but also to its pecuniary interests.

He added:

It is now nearly four years since the *Star and Herald* was suspended, but the company has been afforded no redress at the hands of the Colombian Government for the great wrong inflicted. Such redress, it is thought, should now be tendered.

On February 11, 1895, my immediate predecessor, Secretary Gresham, in a note to Mr. Rengifo, said that the suspension was not the mere unauthorized act of General Vila, but that of the Colombian Government, which it was impossible for it to deny, and that this suspension "was an entirely arbitrary act of executive power."

Now, after almost eleven years' delay, the idea is suggested by Minister Holguin that the *Star and Herald* was not an American enterprise nor entitled to remedy as such for the wrong inflicted upon it. The allegations upon which the wrongs to this American newspaper were at first defended were denounced by Secretary Bayard as frivolous. This new evasion seems to be an effort to further trifle with the subject.

Colombia was originally officially notified by instruction of this Department of May 15, 1886, a copy of which was delivered to that Government by Mr. Jacobs, and again on January 31, 1890, through its minister at Washington, that the *Panama Star and Herald* was a company of American citizens, incorporated under the laws of the State of New York, and as such entitled to our protection. It was scarcely necessary to give this notice, as the charter was recorded both at Panama and Bogota, and the Colombian Government had accorded it the privileges authorized by law to such foreign corporations for the term of fifty years. Still further, the Colombian Congress, by resolution, had publicly thanked the *Star and Herald* as an American paper for its friendly conduct. President Nuñez even exempted it on September 15, 1885, from an order applying to other newspapers in the republic, "principally as a demonstration of appreciation of the United States." Throughout the diplomatic correspondence in this claim until now the American nationality of the owners of the *Star and Herald* was admitted by Colombia, the only defense set up being that under our treaty the consequences of what Minister Hurtado termed the unjust suspension of this paper should rest and be allowed "to fall heavily on its responsible author."

The decadence and the final sale of the local property of this once prosperous journal seems to have dated from its arbitrary suspension, and the assertion that because of the death of its president or the sale of its printing establishment the claim was at an end is absurd. Equally absurd is the attempt to evade payment by contending that the authority of the corporation given to Mr. Leonard Meyers to represent this reclamation died with the death of Mr. Spies, of New York, its first president, or because one of its officers and its manager resided in Panama. Minister Holguin does not contend that this claim was sold to the person who, he says, is now publishing the *Star and Herald*. To remove all doubts the alleged purchaser of that privilege, an American citizen, has placed on the files of this Department his

authority, if any he has, to Mr. Meyers to represent the claim. The Star and Herald corporation is a legal "person" in contemplation of law, and is not to be deprived of its just compensation and damages by technicalities unknown to the law.

The only question then, is as to the proper amount of indemnification in this claim, and I invite your especial attention in this connection to Secretary Gresham's note to Mr. Rengifo, of February 11, 1895, and repeat for your instruction that portion relating to the acceptance of a compromise offer. He said:

This Government can not believe that Colombia, on a reconsideration of the whole matter, will deny its liability to make the claimants a fair indemnity. The amount of the indemnity is another question. Although \$91,000 has heretofore been asked, with the approval of this Department, the claimants announce their readiness to accept a compromise offer approximating what is right. This Government feels itself entitled to expect such an offer from your Government at an early day, and to insist that this matter, already so long delayed, be brought to a satisfactory conclusion.

On May 6, 1895, your legation wrote Secretary Gresham that the Colombian minister for foreign affairs requested such offer to be made by claimants, stating that the belief that for reasonable amount the claim could be settled without difficulty. In pursuance of this communication the claimants authorized Mr. Meyers to say that in view of the friendly relations between the two Governments they would meet Colombia halfway. When, however, this disposition was made known at Bogota your legation reports the attempt of Minister Holguin to deny that the suggestion of a settlement had been made by Colombia. And now, after 11 years, comes the assertion that the Star and Herald papers suffered no loss, as their types were used during the suppression for printing a newspaper under another name.

I am informed that during the suspension the types and printing establishment were leased to a German subject, Mr. August Kruger, who published with them a paper called the "Evening Telegram," and something was saved in this manner to the owners of the Star and Herald. Of course, it was not the same newspaper, nor known as such, or General Vila would have closed it at once.

The Panama Star and Herald, and the edition called "La Estrella de Panama," were published in several languages, with a very large circulation and advertising lists, not only in Colombia, but abroad. It needs no corroboration that, as stated by claimants, subscribers on the coast and elsewhere, as well as advertisers, sought other papers in the meantime, many of them never to return. If one of the large New York papers were discontinued for two months the result need not be figured; and in a country where revolutions were frequent the fear of renewed suspensions was a legitimate one. Claimants' assertion that the wrong complained of led to great loss and final suspension is probably true, as their journals had prospered during previous years.

Even if the pretext now set up could be entertained or an accounting deemed possible after all these years' delay, caused by Colombia itself, all controversy as to amount can be avoided by the very liberal terms which the claimants now offer. They have agreed, *if payment be made at once*, to accept in full settlement one-third of the sum due under their claim, which in its entirety has been approved by this Department. This, however, with the understanding that, if not acceded to promptly, no reduction whatever will be made. You will



please remind the Colombian minister for foreign affairs that among the items of damage in the reclamation of the Panama Star and Herald is one of \$30,000 for injury to the good name and business of the papers. This is entirely aside from the certified losses in subscriptions, advertisements, sales of copies of the daily and weekly editions, and of expenses incurred.

In my opinion this is a very reasonable compensation for the wrong and injury done.

You are instructed to present this offer at once and urge a final answer to the proposition, which you are requested to telegraph to this Department. \* \* \*

I am, etc.,

RICHARD OLNEY.

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*Mr. Hart to Mr. Day.*

No. 83.]

LEGATION OF THE UNITED STATES,  
*Bogota, August 18, 1898.*

SIR: It appears that one of my dispatches of the 12th instant was intended to accompany the translation of certain portions of the report of the minister for foreign affairs as transmitted to Congress, was sent without its inclosure. I have now the honor to forward the said translation. I beg to call the Department's attention particularly to that portion of the accompanying inclosure which relates to the Star and Herald claim, and to ask the Department's instructions in the premises. When I have taken up the matter with the foreign office it has been treated as a claim which was not expected to be insisted upon. If it be the purpose of the Department to push the claim to a conclusion I shall of course lose no time in endeavoring to carry out such instructions as it may be pleased to give me.

I am, sir, etc.,

CHAS. BURDETT HART.

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[Inclosure.]

*The Star and Herald reclamation.*

I have but little to add in regard to this subject to the well-reasoned exposition contained in the report which was presented to you by the foreign office in your past sessions. Reading with attention the antecedents of this reclamation you will be able to comprehend the justice with which the Government, although it always shows deference to the opinions of the Cabinet at Washington, denied continually the pretensions of the Star and Herald Company to reclaim by means of a diplomatic action a heavy indemnity for the damages which it was said to have suffered on account of the suspension imposed upon it by the civil and military officer of the isthmus, Gen. Ramon Santodomingo Vila. The Government could not accept the idea that a newspaper enterprise founded in Colombia and in such a way attached to the part of Colombian territory where it had its residence, that it could not exist outside of it, and which in addition belonged exclusively to Colombian citizens at the time when the reclamation was initiated, should have acquired the rights of a foreign enterprise on account of the simple desire of its owners, and should have a right to diplomatic protection against the action of the Colombian authorities. And much less could this exceptional position be accepted in favor of a periodical that had constantly taken part in our internal affairs, that had acquired a political character and had entered on prohibited ground, publishing articles that favored the separation of the isthmus. This precedent being established other newspaper enterprises in the Republic would have made haste to incorporate themselves in some form

in foreign countries, so that they might acquire diplomatic protection whenever the Government should apply to them the laws governing the press which every nation has a right to pass, and thus we should have political papers which would make use of the same right that our own papers enjoy to discuss our political affairs and yet enjoy the privilege of foreigners in order to escape the responsibility which their conduct might impose upon them.

Neither was it permissible that they should desire to make the National Government responsible for an act executed without its permission or authorization by an agent whose conduct was disapproved afterwards, so that in consequence of the Star and Herald incident General Sandomingo Vila ceased to be civil and military governor of the department of Panama. To give such an extension to the responsibility of governments would have been but little in conformity with what is established by the common consent of natural right and the practice of nations. Finally, the reclamation of the Star, which raised the damages to the sum of \$90,000, was notably unjust, because the enterprise did not suffer on account of the suspension, which it knew how to escape, publishing the same paper under another name; neither were the damages, in case they existed, justly represented by so large a sum, because in this case it would be necessary to give to the enterprise a commercial value that it never had, as is proved by the price, relatively high, which it brought at the auction which followed the insolvency of the company.

The Government also had serious doubts whether there was any person who had a legal right to present the reclamation of the former Star and Herald company, because the enterprise went into insolvency and all its goods and rights on the isthmus were sold at public auction in 1893 to its present possessor, D. Gabriel Duque. The Hon. Mr. Sleeper, in charge of the affairs of the United States legation, presented this point in such form as to leave no place for doubt. In a note of the 1st of April, 1897, he said the following: "Your excellency, indeed, does not pretend that this claim was sold to the person who is now publishing the Star and Herald; but to remove all doubt I beg to inform your excellency that the said person has placed on the files of the Department of State his authority to Mr. Meyers to represent his claim." It appears, then, by the official testimony of the Government, which has sustained the claim, that the rights which the Government may represent belong to Mr. Duque, owner to-day of the Star and Herald. Now, this ministry possesses a declaration given August 17, of last year, before the consul of the United States of America by the said Mr. D. Gabriel Duque, an American citizen and managing director of the Star and Herald and Estrella de Panamá, in which he states that neither he nor the enterprise of which he is the manager have rights against the Colombian Government coming from the claims made on account of the suspension of the Star and Herald and Estrella de Panamá in the year 1886, neither as owner of the said rights nor by any other title which has been used in the name of the enterprise of the said Star and Herald in order to claim from the Government an indemnity, "to which," he adds, "I renounce from the present time, because conscientiously, as an honorable man, and as the principal member of the said enterprise, I stated that it is not guided by anything else than justice harmonized with those acts that are based in legal right, with which the aforesaid claim is at variance in every respect."

The reasons set forth by the Government of Colombia in the course of this long debate had sufficient force to demonstrate the fact that the claim made on behalf of the Estrella has no foundation. If to these reasons we add the decisive testimony that I have just cited, it may be confidently sustained that this disagreeable claim has been closed in a definite manner, because the American Government, if it believed that it ought to favor a pretension that it esteemed well founded, could not continue to give its powerful support to a claim which, by the spontaneous manifestation of the person to whom it is of interest to make it effective, it is in all respects unjust and unfounded.

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*Mr. Adee to Mr. Hart.*

No. 111.]

DEPARTMENT OF STATE,  
Washington, August 20, 1898.

SIR: The Department's No. 259, of February 24, 1897, to Mr. Jacob Sleeper, at that time chargé d'affaires ad interim at Bogota, reviewed the correspondence in the matter of the Panama Star and Herald against the Government of Colombia and instructed him to make

known to that Government the offer of the claimants to accept, *if payment be made at once*, in full settlement, one-third of the sum due under their claim, which, in its entirety, had been approved by this Department.

Notwithstanding its direction to present the offer at once and to urge a final answer to the proposition, which had been telegraphed, the Department has received not even an acknowledgment of its instruction, and consequently has no knowledge as to what action, if any, was taken by Mr. Sleeper. Should your records disclose that he presented the matter, you will urge an early reply. Should you find that he took no action, you will bring the matter at once to the attention of the Colombian Government and endeavor to effect a settlement of it. You may treat the offer of settlement conveyed in Mr. Olney's instruction as still in force, and inform the Department by telegraph if it is accepted.

Respectfully, yours,

ALVEY A. ADEE.

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*Mr. Hart to Mr. Day.*

No. 104.] LEGATION OF THE UNITED STATES OF AMERICA.

*Bogota, September 30, 1898.*

SIR: I beg to confirm my telegram of the 30th instant, as follows:

DAY, Washington:

Referring to your dispatch of August 20 (111), minister for foreign affairs answers, resuming all that he has said before and adding declaration of present owner, that he has not and never had any claims. Minister for foreign affairs regards this as conclusive. I await instructions. Now is the time to push the matter, before the adjournment of Congress, so provision can be made to pay.

HART.

Also to acknowledge receipt of your No. 111 of August 20 in the matter of the Panama Star and Herald claim. Immediately upon receipt of your instructions I prepared a note to the Colombian foreign office and went with it in person that I might present more fully to the minister for foreign affairs the reasons for taking up and dispatching the matter without further delay. On Friday of this week, having occasion to talk with the minister for foreign affairs on the Radford case, I again brought up the Star and Herald matter, and was informed that the reply was in course of preparation. At the same time gave me to know that his Government considered the whole matter as ended, laying great stress on the statement made by the present owner of the Star and Herald, and of which he has since sent me a copy with his answer to Mr. Sleeper's note of April 1, 1897.

I inclose herewith a copy of the reply of the minister for foreign affairs. I do not translate and forward Duque's statement, because its essential parts are included in the note from the foreign office. I can not find in the legation a copy of the statement filed by Duque with the Department of State, so that I am of course unable to make any comparison between the two documents. Mr. Duque is the principal owner of the Panama lottery, a valuable property operated under a concession. At the time of making the declaration now in possession of the Colombian Government he was engaged in a controversy over the concession for a lottery in Cundinamarca, the department of which Bogota is the capital.

I inclose also a copy of my reply to the Colombian foreign office, and to this I take the liberty of directing the Department's special attention. On the point of the mistranslation, which I have raised in my reply, the Department need have no apprehension. The point is beyond dispute. My own view in this respect is confirmed by the best English-Spanish authority in Bogota.

I find no record of Mr. Sleeper's acknowledgment to the Department's No. 259, of February 24, 1897, but on April 1, 1897, Mr. Sleeper did address the Colombian foreign office a lengthy note following the line of Mr. Olney's instructions. On May 31, 1897, he wrote again, pressing for a reply. Mr. Sleeper's note of April 1, 1897, is one of the communications of this legation to which I have repeatedly asked answers, but it is true that I have not felt at liberty to make anything in the nature of a demand without special instructions from the Department.

The present session of the Colombian Congress, unless extended, which is not now thought probable, will close in 120 days from July 20 last. In my first talk with the new minister for foreign affairs, after receiving your No. 111, he agreed with me that it was desirable to conclude the matter while Congress is in session, so that this body might make the necessary provision for payment. This was before he knew anything about the Duque declaration and the stock arguments to be found in his archives.

If this matter be not pushed now, I think it will have no better chance of settlement in the future. I shall, of course, do my best to carry out such instructions as the Department may be pleased to give me.

I am, etc.,

CHAS. BURDETT HART.

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[Inclosure.]

*Mr. Paul to Mr. Hart.*

REPUBLIC OF COLOMBIA,  
MINISTRY OF FOREIGN AFFAIRS,  
*Bogota, September 29, 1898.*

SIR: By note dated the 26th instant, to which I have the honor to reply, your excellency has thought well to call my attention to a dispatch of the 1st of April, 1897, signed by the chargé d'affaires ad interim of the United States, Mr. Sleeper, relative to the claim of the Panama Star and Herald, and to ask that an answer be given as early as possible.

In the course of the prolonged discussion sustained in the matter, the Government of Colombia has supported the reasons and arguments in which it has thought it right to establish itself, to decline the responsibility which has been sought to make effective for the suspension of the said newspaper: such as those referring to the nationality of the company; to the evident hostility of the newspaper against the policy of the Government and the integrity of the national territory; and the disapproval, notwithstanding that hostility, of the conduct of the governor of Panama, who ordered the suspension. At the same time that, in the above-mentioned dispatch of April 1, a refutation is attempted of the arguments advanced in the proper sense by a note of this ministry addressed to your honorable legation November 10, 1896, revelations are made which determine the question, cutting it up by the root. Says Mr. Sleeper in the said dispatch: "Your excellency does not deny that the claim was sold to the person who is now publishing the Star and Herald; but to remove all doubts, I beg to inform your excellency that the said person has placed on the files of the Department of State his authority to Mr. Myers to represent his claim." It results, then, that the rights which the claim may represent belong to Mr. Gabriel Duque, present owner of the Star and Herald. Well, this ministry has

in its possession a declaration, of which I inclose a copy with this note, made the 17th of August of the past year, before the consul of the United States, by the same Duque, an American citizen and managing director of the Star and Herald and Estrella de Panama, in which he affirms that neither he nor the enterprise of which he is manager has cause of action against the Colombian Government growing out of the claims instituted for the suspension of the newspaper called the Star and Herald and Estrella de Panama, in the year 1886, neither as the cassionary of such rights nor for any other reason of those which have been advanced, in the name of the said Star and Herald Company, to demand of the Government of the Republic an indemnity "which," he adds, "I renounce now and henceforth, because in my conscience as an honest man and as the principal member of the said enterprise, it (the enterprise) is guided only by those acts which may have for their foundation only the most legitimate right, with which, from all points of view, the above-named claim is in conflict."

To what has been said may I be permitted to add that the Colombian Government is confident that, although that (the Government) of the United States thought it its duty to lend its favor to that claim because it believed it well founded, it will not continue giving its support to a claim which, by the spontaneous declaration of the only person who would profit by making it effective, is from every point of view unwarranted and unjust.

Your excellency will be good enough to accept, etc.,

FELIPE F. PAUL.

[Inclosure 2.]

*Mr. Hart to Mr. Paul.*

LEGATION OF THE UNITED STATES,  
*Bogota, September 30, 1898.*

SIR: I have the honor to acknowledge the receipt of your excellency's courteous note of the 29th instant, in the matter of the Panama Star and Herald claim, in reply to the note of this legation of date April 1, 1897, and I beg your excellency to accept my thanks for replying promptly, at my request, to a communication of which, until now, it has been impossible to get even the formal acknowledgment of receipt.

I note with surprise that the document which your excellency regards as conclusive in favor of the contention of the Colombian Government is more than a year old, and I am unable to understand why this legation, or my Government at Washington, was not favored with advice of the same at a much earlier day, for your excellency's Government has been aware of the earnest desire of my Government to bring to a just conclusion this matter of more than twelve years' standing.

Your excellency will permit me to suggest, with due respect, that there has been an error in translating an important phrase in the quotation from Mr. Sleeper's note of April 1, 1897, with which your excellency favors me. According to your excellency's note now under consideration, Mr. Sleeper said:

"Es verdad que V. E. no discute que la reclamación fuese vendida á la persona que hoy está publicando el Star and Herald," etc.

This I translate: "It is true that your excellency *does not deny* that the claim was sold to the person who is now publishing the Star and Herald." In fact, Mr. Sleeper, in his note of April 1, 1897, in the passage quoted by your excellency, says: "Your excellency, indeed, *does not contend* that this claim was sold to the person who is now publishing the Star and Herald," etc.

I may be permitted to suggest further that the English verb "to contend" as therein used by Mr. Sleeper, can not be translated by the use of the Spanish verb "discutir." The attempt so to do has reversed completely the meaning of the phrase as it was written by Mr. Sleeper. It is as though your excellency were to say to me: "Bogotá es la capital de la República de Colombia," and I were to translate this: "Bogota *is not* the capital of the Republic of Colombia." In the translation from Mr. Sleeper's note the perversion of meaning is as marked as this. If your excellency will read "sostiene" instead of "discute," Mr. Sleeper's meaning will be entirely clear.

It follows, then, that the conclusion which your excellency is pleased to base on this misconception of Mr. Sleeper's meaning falls with the mistranslation, and Mr. Gabriel Duque's relation to the matter is at once seen not to have the importance which your excellency was misled into giving it. The same misconception is made the connecting link between the claim of the real claimants and the declaration of

Mr. Duque, of which your excellency is kind enough to send me a copy. This link being broken, the declaration of Mr. Duque will scarcely be regarded as an important document in the case. Moreover, I have to repeat that which I had the honor to say to your excellency in our interview of yesterday, to wit, that Mr. Gabriel Duque could not relinquish and sign away rights which he did not possess. I shall esteem the courtesy if your excellency will kindly name an early day when we may take up and dispose of this matter, in which my Government, entertaining always the most friendly sentiments toward that of Colombia, has certainly been most patient, and which now sees no reason to delay further the settlement of this business.

I embrace this opportunity to renew, etc.,

CHARLES BURDETT HART.

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*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, October 3, 1898.

The Panama Star and Herald claim is in the charge of this Government, and you will press its immediate payment.

HAY.

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*Mr. Hart to Mr. Hay.*

[Telegram.]

BOGOTA, October 10, 1898.

Referring to your cable 3d instant, I am pressing the matter. Colombian Government understands we mean business. New administration not familiar with the case, and asks a few day's time to look into the matter, giving assurances that they do not desire to delay definite answer. Will \$30,000 still be accepted as payment in full?

HART.

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*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, October 13, 1898.

Amount named will be accepted as payment in full if paid promptly.

HAY.

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*Mr. Hart to Mr. Hay.*

No. 109.] LEGATION OF THE UNITED STATES OF AMERICA,  
Bogota, October 13, 1898.

SIR: I have the honor to confirm my telegram of the 8th instant, as follows:

Referring to your cable 3d instant, I am pressing the matter. Colombian Government understands we mean business. The new administration not familiar with the case and asks a few days' time to look into the matter, giving assurances that they do not desire to delay definite answer. Will \$30,000 still be accepted as payment in full?

HART.

The matter has been discussed in the cabinet, and the President at once sent to me the minister of public instruction, Mr. Thomas Herran, formerly our consul in Medellin, to present the President's compliments and to say that on the part of the Colombian Government there is no disposition to delay the matter; but that the new administration, being unfamiliar with the case, desired to consult in Panama the record of the public sale of the Star and Herald property; that since I had declined to give time to consult with Mr. Duque as to any interest he may have purchased in the claim, if I would accord an opportunity to consult the record, as desired, communication would be had at once by cable with Panama and the President would much appreciate the courtesy. I advised the President's representative that, with the distinct understanding that the matter would be brought to a prompt conclusion, I would have pleasure in submitting to my Government by cable the purport of the President's desire. I am advised by Mr. Herran, still speaking for the President, that the cable was dispatched promptly to Panama. In the interview I assured Mr. Herran that the inquiry in Panama would be useless, because the records of the sale would not disclose the sale of the claim or any part of it, as no such sale of the claim or any part thereof took place. As yet I have received no reply from the department to my cablegram as above confirmed.

I am, etc.,

CHAS. BURDETT HART.

*Mr. Hart to Mr. Hay.*

No. 115.] LEGATION OF THE UNITED STATES OF AMERICA,  
Bogota, October 25, 1898.

SIR: I have the honor herewith to inclose copy of a note sent yesterday to the Colombian foreign office in the matter of the Star and Herald.

I am, etc.,

CHAS. BURDETT HART.

[Inclosure.]

*Mr. Hart to Mr. Paul.*

LEGATION OF THE UNITED STATES OF AMERICA.  
Bogota, October 24, 1898.

SIR: The circumstances of the case compel me to recall to your excellency's attention my note of October 6, in the matter of the Panama Star and Herald claim, and to ask that your excellency favor me with a definite reply thereto, in order that I may cable the same to my Government on or before Wednesday the 26th instant, it being the desire of my Government to close this incident without further delay.

I improve this opportunity to renew, etc.,

CHAS. BURDETT HART.

*Mr. Hart to Mr. Hay.*

[Telegram.]

BOGOTA, October 27, 1898.

Government of the United States of Colombia says no word yet received from Panama in the matter of the search of the traversing records. It promises to dispose of the claim by December 1. Have telegraphed latest. Do you instruct to wait or to proceed with demand.

HART.

*Mr. Hill to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, November 1, 1898.*

Proceed with demand Star Herald claim. This Government imperatively insists on prompt payment.

HILL.

*Mr. Hart to Mr. Hay.*

No. 119.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Bogota, November 7, 1898.*

SIR: I have the honor to acknowledge the receipt of your telegram of November 1, which I translate as follows:

Proceed with demand Star and Herald claim. This Government imperatively insists on prompt payment.

HILL.

Owing to the disturbed condition of affairs, as reported in my No. 120 of this date, it has not been practicable to do business with the Government. I expect to have an interview with the minister for foreign affairs this afternoon, when of course the matter will be brought to a head and the Department will be at once advised by cable.

I am, etc.,

CHAS. BURDETT HART.

*Mr. Hart to Mr. Hay.*

[Telegram.]

BOGOTA, *November 9, 1898.*

Referring to your cable November 1, minister for foreign affairs says will pay claim, but no money in the treasury; ways and means was not discussed; in a cabinet meeting to-morrow minister for foreign affairs wishes to know if certificates receivable for customs duties will be accepted and if you will consent to take these by installments at one, two, and three months, \$10,000 each. I have insisted upon American dollars, spot cash, but have agreed to ask as above in view of the condition of the Colombian treasury. I beg to suggest that I should be allowed to accept American currency by installments at one, two, and three months.

HART.

*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, November 10, 1898.*

Will accept payment Star and Herald claim in installments, \$10,000 each, at one, two, and three months, American currency.

HAY.



*Mr. Hart to Mr. Hay.*

[Telegram.]

BOGOTA (14th), November 15, 1898.

On motion of Government, Senate passed on first reading bill authorizing payment Panama claim; strong opposition, but minister for foreign affairs says bill will pass both houses within five or six days.

HART.

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*Mr. Hart to Mr. Hay.*

[Telegram.]

BOGOTÁ, November 18, 1898.

The bill authorizing payment Panama claim passed Congress finally yesterday. To-day according to arrangement I went to foreign office expecting settlement. Minister for foreign affairs showed me cable from Colombian chargé d'affaires in Washington stating that you had promised to transfer the matter from here to Washington and to await arrival of certain documents from Panama. Minister for foreign affairs said he hoped to make better terms in Washington than I had offered here, namely, the payment of \$30,000 American, and consequently for the present the further consideration of the matter here would be suspended. I informed minister for foreign affairs that I had no information of any agreement to transfer to Washington and I would advise you at once of the unexpected attitude assumed by his Government.

HART.

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*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 19, 1898.

I told the Colombian minister that no further measures would be taken here until I received a report from you. I told him that the instructions given you would stand and you will not alter the line of conduct already directed. The matter remains in your hands.

HAY.

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*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 19, 1898.

Later. You may await more specific instructions which will be sent you within the next ten days in harmony with those already given.

HAY.

*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 17, 1898.

Press for immediate payment of Star and Herald claim.

HAY.

*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, January 9, 1899.

Press payment Star and Herald claim.

HAY.

*Mr. Hart to Mr. Hay.*

[Telegram.]

BOGOTÁ, January 21, 1899 (January 23, 1899).

Referring to the Panama claim, have accepted offer to pay \$30,000 in three equal installments, February 10, April 10, and June 10, in drafts at sixty days. Best that could be done in desperate financial situation.

HART.

*Mr. Hay to Mr. Hart.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, January 23, 1899.

Your cablegram reporting the acceptance offer \$30,000 Star and Herald claim in three installments, February 10, April 10, and June 10, in drafts at sixty days, approved. Congratulations.

HAY.

*Mr. Hart to Mr. Hay.*

No. 170.] LEGATION OF THE UNITED STATES OF AMERICA,  
Bogotá, February 3, 1899.

SIR: I have the honor to forward herewith copy of a recent note passed to the Colombian foreign office and translation of the reply thereto of the Colombian minister of foreign affairs.

The Department will observe that there has been other correspondence, but since the matter is terminated I have thought it unnecessary to forward more than the two notes herein inclosed. The Colombian foreign office put in a long protest based on the arguments with which

the Department is already familiar. To these arguments I did not think it necessary to reply, as in an interview with the minister of foreign affairs we had already settled the matter, in the terms set forth in the inclosed correspondence, of which settlement I promptly advised the Department by cable. If the Department so desire the correspondence not copied and not translated will be forward promptly on its suggestion to this effect.

I am, etc.,

CHAS. BURDETT HART.

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[Inclosure 1.]

*Mr. Hart to Mr. Marquez.*

LEGATION OF THE UNITED STATES OF AMERICA,  
Bogotá, January 25, 1899.

SIR: I have the honor to acknowledge the receipt of your excellency's polite note of January 25, 1899, in which I am advised that your excellency's Government accepts the offer of my Government to receive in full satisfaction of the Panama Star and Herald claim the sum of \$30,000 United States gold. According to my understanding of the arrangement agreed upon between your excellency and myself, in the recent interview which I had the honor to have with your excellency on the subject, the sum above named is to be paid as follows, in drafts on New York at sixty days from sight: one draft for \$10,000 on February 10, 1899; one draft for \$10,000 on April 10, 1899; and one draft for \$10,000 on June 10, 1899. I shall be glad if your excellency will kindly confirm this understanding.

I observe that in the note to which I now have the honor to reply your excellency embraces the opportunity to make a new protest against this claim. I observe also that the new protest is sought to be supported by arguments which have heretofore been advanced by your excellency's Government in support of its contention and which have been replied to at length on the part of my Government. Since the basis of settlement has been reached and the terms of payment agreed upon, I do not think it necessary to present again the arguments by which my Government has demonstrated the wrong and injustice of the order suspending the publication of the Panama Star and Herald, and sustained the justice of the claim for damages resulting from that arbitrary and unjustifiable act.

I embrace this opportunity to renew, etc.,

CHARLES BURDETT HART.

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[Inclosure 2.]

*Mr. Marquez to Mr. Hart.*

[Translation.]

BOGOTA, January 30, 1899.

SIR: On the 21st instant I addressed to the minister of the treasury the following communication:

I have the honor to inform your excellency that, in accord with the determination of the council of ministers on the 19th instant, it has been resolved to proceed with the definitive arrangement of the claim which the Government of the United States

has been sustaining in favor of the old Panama Star and Herald Company for the suspension of that newspaper, ordered by the civil and military governor of Panama in the year 1886.

The said arrangement is perfected and the claim terminated according to the Republic's acceptance of the offer which the said Government has presented through its diplomatic representative in this capital, which is that the amount of the said claim, which was originally fixed in \$91,000, is reduced to \$30,000, which, according to the agreement with the minister of the United States, will be paid to him in drafts at sixty days' sight, as follows:

The 10th day of February next.....	\$10,000
The 10th day of April of this year an equal sum.....	10,000
The 10th day of June of the same .....	10,000
	<hr/>
	\$30,000

Begging that your excellency may be good enough to make the necessary arrangements to the end that these payments of which this communication treats may be made in the form as I have described, etc.

The preceding communication being in entire accord with the oral agreement which I had occasion to bring to a conclusion with your excellency to terminate the claim in question, and having set forth in my former dispatch addressed to your excellency the proper protest against that demand, I refer to your excellency's note of the 28th instant, in which you ask for the ratification of the said agreement.

I offer to your excellency the assurance, etc.,

CARLOS CUERVO MARQUEZ.

## DOMINICAN REPUBLIC.

### ASSASSINATION OF PRESIDENT HEUREAUX, AND REVOLUTION IN DOMINICAN REPUBLIC.

*Mr. Powell to Mr. Hay.*

[Telegram.]

PORT AU PRINCE, *July 27, 1899.*

Heureaux has been assassinated. Further information later.

POWELL.

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*The President to the President of the Dominican Republic.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1899.*

In the name of the American people, and in my own, I offer to your excellency and the Dominican nation most sincere condolences by reason of the death of President Heureaux.

WILLIAM MCKINLEY.

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*Mr. Powell to Mr. Hay.*

No. 144.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, July 29, 1899.*

SIR: I respectfully report to the Department the death of Gen. Ulysses Heureaux, the President of this Republic, and the cause that led up to the same.

Early in March, 1898, the President finding the financial situation becoming critical, the revenue of the country constantly decreasing while the expenditures were increasing, brought in part about by the urgent necessities of the Government on the one hand, on the other the payment of certain large claims that were pressing upon him by the foreign Governments; to relieve the situation he obtained from the commerce (merchants) several large loans at a high rate of interest. When the time came to repay these loans, he was unable to do so. He then endeavored to obtain other loans to cancel those he had already received; in this he was unsuccessful.

These loans had been made to him by the leading merchants in the foreign trade, principally those engaged in the sugar interests surrounding Santo Domingo City and Macoris. Finding it impossible to meet the loans, and the situation becoming more and more grave, as a relief to the smaller merchants and to the country people, he caused to have circulated a large amount of paper currency, to the amount of \$4,000,000. There was no guarantee in regard to its redemption,

and both merchants and people refused to receive it, except at a very heavy discount. Instead of this measure being a relief, it only complicated matters and rendered it more difficult to adjust.

Its primary object being to relieve the situation in the cities of Santo Domingo and Macoris, whose main industry was in the exportation of sugar, the other parts of the Republics were doing fairly well and did not need the paper money, as their products were of a more diversified character. The situation became such that the country people refused to bring to market their produce. The large planters, on their part, employing a large number of men, bought provisions in the States and sold it at a slight advance to their employees. This of course still further reduced the amount of money in circulation and depreciated the paper currency more. The smaller shopkeepers, the middle and laboring class, not in the employ of the planters, felt the full force of this depreciated currency. So grave did the situation become that for ten days Santo Domingo was without fresh meat and vegetables. Matters became a little better when the President informed the public that this money would be redeemed in gold July 1, 1899, at the rate of three dollars (paper) to one in gold. He hoped to bring this about by a loan, which he was about to obtain in England, through one of the banks in London, by which he was to receive about \$2,000,000; but before this loan could be made available, the promised time (July 1) for redemption had passed.

The people seeing the paper currency still in circulation, with the prospect of more to follow, looking upon the promises made by the President as hollow, and made for the purpose to deceive them, began to murmur, and this disaffection began to spread.

The President deemed it best to absent himself from the capital until the money should arrive. He had at the time a good excuse to do so, in stating the boundary question of the two Republics required his presence on the frontier. After this was settled, he had another to prolong his stay from the capital in a rumor of an anticipated uprising of certain of Mr. Jimenez's followers in the north, near Monte Christi.

A portion of this money (\$600,000) reached Santo Domingo City about the 5th of July. He distributed this sum among the merchants of Santo Domingo City and Macoris, where the greatest distress seemed to prevail; while this had a tendency to appease the people in and near those cities, it produced a contrary effect in the interior and the other parts of the Republic. They finally refused to receive the paper money, and would only exchange their products for gold. In and around Puerto Plata they would only receive it in exchange at the rate of 10 for 1, and in some cases 12 for 1.

To repress this discontent, and to suppress these murmurs, several of the parties who had severely criticised the policy of the Government in issuing paper money were shot, as examples to others or like discontented spirits.

While endeavoring to secure this temporary loan, he was endeavoring to consolidate all the debts of the country into one, pay the same off by securing a loan sufficiently large in the United States, giving to such a syndicate as guarantee the revenue of the country, and surrendering into their hands the whole fiscal policy of the Government to mold, retaining only the executive functions.

As I have stated, the measures instituted by the President to relieve the people had an opposite effect in other sections of the Republic,

especially at Moca. This is a town of about 3,000 inhabitants and within 8 leagues of Santiago, the principal town in the interior.

Hearing of the dissatisfaction, he proceeded there. It is reported he caused some of the leading men of the place, who he was informed were plotting against him, to be shot, and orders were given to inflict the same penalty upon others. The day he was to leave for Santiago—in fact was on his horse to proceed there—three men, Ramon Caceres, Juan Ricardo, Horacio Vasquez, whom rumor had stated were to suffer the same fate, stopped the President and inquired of him whether the report that he had given such orders was true. The President is said to have replied by directing they be immediately executed. One of them immediately drew his revolver and shot him, the ball entering his heart. He fell from his horse. When his attendants reached him, he was dead.

In the excitement that followed, the men escaped. He was buried the following day at Santiago.

At this writing all is quiet in all parts of the Republic, though it is rumored that Jimenez, who is now at Habana, was preparing to leave for Santo Domingo.

The Vice-President, M. Figueroa, has taken the oath of office. He is a man of 63 years, but active and vigorous, is well liked, and has with him the army and navy, both of which are well equipped, according to the constitution. No election will be held for two years, that being the time when President Heureaux's term would have expired.

In closing this report, though General Heureaux may have had many faults, faults that may be considered inexcusable, that he was harsh in his manner of executing the law, that he punished his foes severely, yet in justice to him it can be said by an impartial observer that he has done more to advance the condition of his Republic than any of his predecessors. He was a friend to all foreigners, especially to Americans; he was a man easy to approach, a patient listener to all, ever ready to help the poor of his Republic. He believed the prosperity of his country could only be achieved by inviting foreign capital to develop its resources. With that view he caused the most liberal laws to be enacted in their favor.

His name is indissolubly linked in the history of this Republic. At the age of 14 he led a small band against the Spanish garrison at Puerta Plata; from thence the insurrection spread, which ended in the independence of the Republic. He continued in its service until exiled by one of the Presidents. He returned after an absence of four years, and led the revolution that deposed President Baez. Prior to that he led the forces of the Republic against Haiti, and compelled it to acknowledge Santo Domingo as a sovereign state.

Excepting a slight interval of a few months, he has been President of the Republic for fourteen years.

I have, etc.,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

No. 148.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 9, 1899.*

SIR: By advices received by this mail from Santo Domingo, I place the Department in possession of later information than that contained

in dispatch No. 144 of July 29, 1899, concerning the assassination of President Heuraux.

He was at breakfast. While his bodyguard were taking theirs at a house at a short distance from his, a beggar approached soliciting alms, and while his well arm (one of his arms he had little use of, on account of wounds) was in his pocket to give to this beggar, he was attacked suddenly, and before he could draw his revolver, or summon aid, his body was pierced by six bullets fired by the men named in a previous dispatch. One bullet entered his heart, one his lungs, one his abdomen, one his shoulder, one his head, and one his arm. The beggar was also shot. In the excitement the assassins escaped. They have since been caught and executed.

By a message sent by the Government to its minister, Dr. Henas, and communicated to me, that quietness prevailed in all sections of the Republic, a party of Dominicans endeavored to land at a place between Fort Liberty and Monte Christi, were met by a body of Haitian soldiers. Some were taken prisoners and are now in jail; the remainder were dispersed, fleeing into Dominican territory, where it is said they will soon be captured.

The financial condition of the country is in a bad shape. I inclose copy of private letter received, which will place the Department in possession of certain facts which will be valuable to it.

The gunboat *Machias* arrived on the 1st of the month, the *New Orleans* on the 4th. All were reported well.

I have addressed letters to our consuls at Puerto Plata, Mr. Simpson, and to Mr. Edw. Reed, Santo Domingo City (Mr. Maxwell being on leave), requesting each to inform the Department of any uprising, and if the emergency required it to cable to the Department.

I have, etc.,

W. F. POWELL.

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[Inclosure 1.]

*Mr. Reed to Mr. Powell.*

SAN PEDRO DE MACORIS, SANTO DOMINGO, W. I.,

August 3, 1899.

DEAR SIR: I beg you to receive this letter, not as an official communication, but as a private account of the present situation in this unhappy country, which I take the liberty to give to you to act upon, or not, just as you see fit.

You of course are aware of the assassination of the President, but I do not think that you know fully the terribly bad financial condition this country is in at present; in debt, without money or credit, and with all the resources of the Government, in the way of income, pledged already beforehand.

The facts are these: The foreign debt of this Government is about \$22,000,000—the paper currency in circulation, without any funds for redemption, about \$5,000,000—and the so-called silver money, the intrinsic value of which is 10 cents to the dollar, about \$2,000,000.

On account of no redemption fund the paper money, before the death of the President, stood already \$20 to \$1 gold; now the merchants and country people refuse to take it altogether, though the Government accepts the same for import duties and other fees at \$6 to \$1 as against gold; the Dominican silver dollar is quoted nominally at \$6 to \$1 in gold, though I do not think you could buy any exchange at that rate, the French Telegraph Company accepting silver at the rate of \$10 to \$1, which is about its intrinsic value.

The sudden death of the President has paralyzed the Government officials and the people, accustomed, as they have been for years, to be led and ordered by him, and they look at one another helplessly and do not know what to do, stricken almost dumb by the terrible state of financial affairs, because in all my experience I have never seen or heard of any country so utterly ruined financially as this country is



to-day; and all this is done by one man, who, though able to keep peace in the country, was no financier and had no idea of the value of money, and who spent, to keep this peace, enormous sums of money, borrowed at ruinous interest from any and every body, without giving a thought to the end which had to come. Even if he had lived, he could not have run this Government longer than a year without a collapse.

I do not think there will be a revolution here, simply because there is no money, and the people will support any government that succeeds in getting good money into the country to relieve the situation, no matter at what sacrifice.

I remain, etc.,

E. REED.

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[Inclosure 2.]

*Mr. Powell to Mr. Reed.*

No. 428.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 8, 1899.*

SIR: Accept my thanks for the valuable information which your letter has given me, received in this mail, which I shall make the subject of my dispatch to the Department by next mail, it arriving too late for this.

From your letter I find the economic situation is far worse than it was when I was there, or what I thought it could be. The foreign debt is greater, the amount of the paper currency in circulation larger, and the intrinsic value of the silver less; truly the republic is in bad shape. I would be glad if you will quietly gather what information you can as to the amount of the foreign debt, by whom held, and in what amounts. Also send to me in this connection the revenue of the Government from customs and other sources for the five years, the expenditures of the Government for the same period. If there is any Government publication bearing upon this, procure it for me.

I was very sorry to learn of the assassination of President Heuraux, and, more so, to know the unhappy predicament by which the country is left and the dark clouds that are hovering over it. I advise you to keep the State Department immediately advised of any uprising against the present Government.

Your letter to Messrs. Clyde I was able to send this mail which left to-day, by inclosing it in my mail pouch; it will reach New York by the time you will read this.

Give me as full information as you can on the data requested, and by next mail if possible, also any changes that may have occurred in the meantime.

I also herein acknowledge receipt of yours dated August 4, in reference to Cubans and Porto Ricans.

I am, etc.,

W. F. POWELL.

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[Inclosure 3.]

*Mr. Powell to Mr. Simpson.*

No. 429.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 8, 1899.*

SIR: I have your kind favor of August 4. Thanks for the information it contained. I regret exceedingly to hear of the untimely death of President Heuraux, which will still further unsettle the condition of the Republic.

I trust you will keep the State Department advised of any uprising against the present Government, using the cable if you find the emergency requires it.

Be kind enough to remember me to the members of your family.

Respectfully, yours,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

No. 152.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 18, 1899.*

SIR: I respectfully inform the Department there was a slight skirmish between the Government forces and some of the followers of Mr.

Jimenez, in which the latter was defeated. Haitian troops are guarding the border closely to prevent the insurgent seeking refuge in their territory.

In all other parts of the Republic there is an appearance of quiet.

The weakness of the present Government is the financial problem. If that could be satisfactorily solved the permanency of the Government would be assured; if they are unable to do so, then it will have to give place to another. The President, though, feels the Government will be able to surmount the difficulties that at present surround it.

I have, etc.,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

No. 156.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, September 1, 1899.*

SIR: I respectfully inform the Department of the course of events that have occurred since my last dispatch was written.

Information reached me to-day from the capital stating that President Figueroa, finding it impossible to relieve the financial distress, has resigned the office of President. A provisional Government has been established at Santiago, this place, and in fact the whole district is affected, not so much against the Government as it is against the financial condition which the Government is powerless to relieve. The army, finding the Government could only pay them in paper, which the people will not accept, refused to fight, laid down their arms.

It is reported of Mr. Jimenez that he is in a position to relieve the financial situation, having had placed to his credit \$1,000,000 gold. He has also promised many reforms, which many think he will be unable to carry out; if he fails, another insurrection is imminent.

A battle was fought at Monte Christo August 25; the Government forces were led by General Cordillas, the minister of war. At first he was successful, but was finally compelled to retreat to Puerto Plata, since which time his army has largely deserted him.

Mr. Jimenez is expected to land to-morrow at Puerto Plata; on the 30th he was with his family at Santiago, having come from Cienfuegos, his suite numbering ten persons.

It is the belief among all classes, both native and foreign, that there is but one solution to the present situation; that is, our Government shall assume a protectorate over these people, or annex them as an integral part of the United States. If the people themselves could decide they would choose the latter, and become an integral part of the United States. This country is hopelessly bankrupt, its foreign debt amounts to nearly \$25,000,000, its interior debt no one knows. The revenue for the past few years have been inadequate to meet the expenses of the Government. Loans have been made, wherever loans could be made, at high rates of interest.

As the Department is well aware the Government is largely indebted to American claimants. The Ozama River Bridge claim amounts to nearly \$50,000, principal and interest, one payment of which is long overdue. Then we have the Drake and Stratton claim, amounting to \$538,000. These are some of the heaviest claimants, not mentioning

those who have been compelled to loan President Heuraux money, who will request of the Department that this money be returned to them.

The Dominican minister to this Republic, Dr. A. Henas, requested, when the news was confirmed of the resignation of President Figueroa, the release of the Dominicans now in prison at Port au Prince, confined at his request on instruction from his Government.

There is, I am informed, an English naval vessel in the harbor of Santo Domingo, also a French vessel.

I suggest to the Department before any recognition be given to the new Government that it be stipulated that it recognize the claims due the late government to American claimants, and that they be paid at an early day; if this is not done, they will endeavor to evade payment of these claims.

The Department I trust will not think I am treading on forbidden grounds in calling its attention to this matter.

I have, etc.,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

No. 157.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, September 2, 1899.*

SIR: I respectfully confirm the following cables:

Revolutionists have been successful. President and government resigns. Provisional government established at Santiago. Santo Domingo quiet. Official report.

POWELL.

(Sent 10 a. m., September 1, 1899.)

Report when effective and responsible de facto government is organized in Santo Domingo, but take no steps toward recognition without explicit instructions.

HAY.

(Received 6 p. m., September 1, 1899.)

Will follow your instructions. I have sent particulars by mail. What instructions to Commander Hall at Jacmel? Telegraph me again.

POWELL.

(Sent 8 a. m., September 2, 1899.)

I have, etc.,

W. F. POWELL.

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*Mr. Hay to Mr. Powell (now in the United States).*

No. 91.]

DEPARTMENT OF STATE,  
*Washington, October 19, 1899.*

SIR: I inclose, for your information, copy of dispatch No. 53 from Mr. C. L. Maxwell, consul at Santo Domingo City, communicating the official notification received by him of the formation of a provisional government of the Republic of Santo Domingo.

It will be one of your earliest duties upon your return to your post to inquire into the political situation in Santo Domingo as it may then exist with a view to entering into effective relations with the de facto

government when it shall have been fully established with the general consent of the people. It is the practice of this Government to enter into such relations upon ascertainment of the fact. The communication made to Consul Maxwell by Señor Domingo Ferreras indicates the provisional character and composition of the Dominican Government.

Upon your being satisfied that the new government of Santo Domingo is in possession of the executive forces of the nation and administering the public affairs with due regard for the obligations of international law and treaties, you will enter into full relations with it. This is done by your addressing a note to the Dominican minister of foreign relations.

The Department having been informed by the chargé d'affaires of the Dominican Government on the 16th instant that his resignation had been accepted and the legation would be closed, there is no representative of that government in this country with whom this Government now maintains relations.

A communication has been addressed to me by Señor Domingo Ferreras, the minister of foreign relations of the provisional government, dated September 29, and inclosing a commission signed by Horacio Vasquez as president of the provisional government of the Dominican Republic, appointing Señor Emilio C. Joubert, consul-general and chargé d'affaires in place of Señor Wos y Gil. Action upon this is necessarily deferred until the initial step of recognition is decided in accordance with the foregoing instructions, and Señor Joubert will be so advised if he should arrive in Washington and seek an audience before the receipt of your report.

I am, etc.,

JOHN HAY.

[Inclosure in No. 91.]

*Mr. Maxwell to Mr. Hill.*

No. 53.]

CONSULATE-GENERAL OF THE UNITED STATES,  
*Santo Domingo, September 26, 1899.*

SIR: I have to inform you that by an official communication dated September 6, 1899, and signed Domingo Ferreras, this office is advised of the following provisional government of this republic:

President: Horacio Vasquez.

Secretary of state, of the interior, and police: José Brache.

Secretary of foreign relations: Licenciado Domingo Ferreras.

Secretary of justice and public instruction: Licenciado José Ma. Nouel.

Secretary of public works, etc.: Arturo Zeno.

Secretary of the treasury and commerce: Samuel Moya.

Secretary of war and navy: Ramon Caceras.

Secretary of post-office and telegraph: José Franco Guzman.

The communication closes with the following:

"It is hoped that the United States will recognize this government as legally constituted for the effects (purposes) of the good relations that happily exists between this Republic and the United States Government, which you so honorably and acceptably represent. I approve this opportunity to salute you with sentiments of distinguished consideration."

I have further to inform you that the secretary of war and navy, Ramon Caceres, is the same individual who killed the late President Heurieux. Mr. Caceres resigned some days ago and Mr. Aristides Partino has been appointed as his successor.

I am, etc.,

C. L. MAXWELL, *Consul-General.*

*Mr. Powell to Mr. Hay.*

No. 159.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, November 11, 1899.*

SIR: I have the honor to state that the affairs of the Santo Domingo Republic are gradually assuming a definite shape. The Congress of the Republic, which had been summoned by the provisional government to meet in extraordinary session, had its first meeting on November 7.

Mr. Jimenez has been elected, and will be installed on November 15, as president of the Republic. It is too early as yet to state whether this will bring tranquillity to the Republic.

The national paper currency that was issued by the late administration without any guaranty of its future redemption is gradually being retired, American gold, silver, and nickel taking its place; in fact our paper currency being received on a par with our metallic currency.

I have taken no steps in the direction of the recognition of the new government until I have received more definite information from the capital, or from the Department.

I have, etc.,

W. F. POWELL.

*Mr. Powell to Mr. Hay.*

No. 163.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, November 16, 1899.*

SIR: I have the honor to state to the Department that Mr. Jimenez took the oath of office in the presence of the members of the Chambers on November 14, 1899, and assumed the duties of President of the Republic of Santo Domingo.

I have, etc.,

W. F. POWELL.

*Mr. Hay to Mr. Powell.*

No. 93.]

DEPARTMENT OF STATE,  
*Washington, November 22, 1899.*

SIR: I inclose a copy of the award of the arbitrator; Mr. Noble, in the Ozama River Bridge case against the Government of the Dominican Republic.<sup>1</sup>

On October 25 last the Department sent the following telegraphic instruction to the United States consul at Santo Domingo City:

Request prompt payment of unpaid amount, principal and interest, on award in Ozama River Bridge case, due April 26 last, \$45,159.20, and include also 6 per cent interest accrued since that date.

You will at your earliest convenience, compatible with the work of the legation, proceed to Santo Domingo City and obtain full payment and final settlement of this claim.

I am, etc.,

JOHN HAY.

<sup>1</sup> Not printed.

*Mr. Powell to Mr. Hay.*

No. 165.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, December 5, 1899.*

SIR: In reply to Department's dispatch No. 93, of November 22, 1899, received in this mail, I have the honor to state I am awaiting further instructions in reference to the recognition of the present Government which has recently been established. I have not communicated with them as yet. I have several important dispatches to forward to them as soon as I hear from the Department.

I have written to our consul-general, Mr. Maxwell, at Santo Domingo, to furnish me with a detailed statement of the situation there. I expect an answer this week. I hope it will arrive in time, that I may furnish the Department with the information received.

I can not well leave by this steamer, whose sailing date is the 9th of the present month, even if instructions had been received, except the same were positive to depart immediately, on account of my quarterly returns, which are due the latter part of this month. Again the anniversary of independence (January 1) will be held within the next few weeks, at which time it is expected that each accredited representative will be present at the fête in commemoration of that event.

I have, et

W. F. POWELL.

*Mr. Powell to Mr. Hay.*

No. 167.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, December 9, 1899.*

SIR: I have the honor to inclose a copy of the letter received this morning from the United States consul-general, Mr. Maxwell, on affairs in Santo Domingo.

I have, etc.,

W. F. POWELL.

[Inclosure I in No. 167.]

*Mr. Maxwell to Mr. Powell.*

CONSULATE-GENERAL OF THE UNITED STATES,  
*Santo Domingo, November 24, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 458, of November 14, 1899, requesting full details in reference to the existing state of affairs in this Republic, etc.

In reply I have to say that on the 15th instant Mr. Juan Isidro Jimenez and Horacio Vasquez were publicly inaugurated President and Vice-President, respectively.

The following is the new ministry:

Interior and police: Gen. Louis M<sup>a</sup> Hernandez Brea.

Foreign relations: Dr. Francisco Henriquez y Carvajal.

Justice and public instruction: Licenciado Alvaro Logroño.

Fomento and public works: Francisco L. Vasquez.

Treasury and commerce: F. Agusto Gonzales.

War and marine: Gen. José Brache.

Post-office and telegraph: Eugenio Deschamps.

I do not know that I can add anything further of interest than is contained in my latest report to the Department, a copy of which I herewith inclose for your information.

I am, etc.,

C. L. MAXWELL, *Consul-General.*

*Mr. Powell to Mr. Hay.*

No. 171.]

LEGATION OF THE UNITED STATES,

*Port au Prince, Haiti, December 15, 1899.*

SIR: In reply to the cablegram received to-day I do not understand what the Department requests. I forwarded in dispatch No. 166, of December 5, 1899, all the information that was in my possession concerning the Ozama Bridge award. I am awaiting instructions from the Department in reference to it, and what steps I shall take in the recognition of the present Government.

Up to the present time I have received no information from that Government of its existence, nor has either of my colleagues here. I do not care to assume this responsibility without full instructions from the Department.

I remain, etc.,

W. F. POWELL.

*Mr. Powell to Mr. Hay.*

No. 173.]

LEGATION OF THE UNITED STATES,

*Port au Prince, Haiti, December 28, 1899.*

SIR: I have the honor to acknowledge the receipt of dispatch No. 95, of December 20, 1899, in reference to the presentation to the Dominican Government of a request for the payment due on Mr. Thurston's claim, July 1, 1899, and that which falls due January 1, 1900, with accrued interest on all the payments.

In reply the Department will pardon me in failure to comprehend its instructions in dispatch No. 91, of October 19, 1899; it was in conformity with those instructions that I have acted.

In the dispatch referred to I was instructed—

that upon your being satisfied that the new government of Santo Domingo is in possession of the executive forces of the nation and administering the public affairs with due regard for the obligations of international law and treaties you will enter into full relations with it. This is done by your addressing a note to the Dominican minister of foreign relations.

I received no satisfactory information of the formation of the new government at Santo Domingo except what I read from our home papers and what I received from my colleagues here until Mr. Maxwell's letter of December 9, 1899, reached me, stating the names of the cabinet of the new Executive. As the Department can readily understand, I could not act on the former information of the news received through the columns of our home journal without subjecting myself to censure from the Department. On the receipt of Mr. Maxwell's, our consul-general's, letter I could not reply by that mail, on account of the early departure of the steamer, which left the same day on its return trip.

I have not up to this date, nor has any of my colleagues, received any official information from the Dominican secretary of foreign relations of the existence of the present Government. Again I was, and am still, in a quandary as to the form of note I should address to the secretary of foreign relations in reference to the recognition of the pending Government. This was in part the instruction I trusted the Department would forward to me.

The Department is also unaware of the very poor mail facilities that exist between the two republics. There is but one steamer a month, reaching here on the 8th or 9th and leaving on its return trip the same day or early the next. The time of going from one capital to the other is six days, leaving on the 9th and reaching Santo Domingo City on the 15th, or the time it requires to go from here to New York, so unless we take advantage to reply by the same steamer we must wait for the next, a month hence.

In regard to Mr. Thurston's claim there is but one course for me to pursue, that is to go to Santo Domingo and remain there until this matter is finally closed and money paid; simply to write to them from here is a waste of valuable time, by them either not replying to my communications or else taking the time to discuss when they would pay the same. By being there I would better secure the amount due Mr. Thurston than by remaining here and requesting the same through the mails.

I have requested the Department in previous communications to instruct me in reference to other claims pending against the Dominican Government as to the course I should pursue in regard to them, principally that of Messrs. Drake & Stratton, and also as to the future condition of the Santo Domingo Improvement Company. From the columns of the New York papers I see that instructions were to be sent to me concerning this and other matters, but up to date nothing has been received.

I have, etc.,

W. F. POWELL.

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*Mr. Hay to Mr. Powell.*

No. 97.]

DEPARTMENT OF STATE,  
*Washington, January 5, 1900.*

SIR: I have to acknowledge the receipt of your No. 171, Santo Domingo series, dated December 15, 1899, in reference to the recognition of the present Government of Santo Domingo. You state that up to the present time you have received no information from that Government of its existence, and that you do not care to assume the responsibility of recognizing it without full instructions from the Department.

It is the policy of the Government of the United States to acknowledge any Government to be rightful which is established and accepted as such by the nation over which it exercises all the functions of government.

The recognition of the newly established Government may properly be accomplished by the mere resumption or continuation of diplomatic relations.

You may adopt this course, if you have not already done so, by the renewal of official relations between the two Governments by proceeding in the usual manner to carry out and obey all instructions of this Government to you which you have not already complied with.

You were instructed last October to recognize the Government administered by President Jimenez whenever it was firmly established, and in an instruction to you last December the Department presumed that you had already done so.



It is rumored that the French consul is pressing the Dominican Government for the payment of a claim for 280,000 francs, and in the meantime it is not shown that the overdue balance on the award in the Ozama River Bridge case has been paid.

The Department expects you to take that matter up and urge the payment of it without more delay. You already have full information as to all the details of the case, and you have been amply instructed that the claim must be paid, and the Department having knowledge of your zeal and activity in the discharge of official duty confidently expects a prompt report showing its payment.

I am, etc.,

JOHN HAY.

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### REFUSAL OF ASYLUM TO A DOMINICAN.

*Mr. Powell to Mr. Hay.*

No. 151.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August, 14, 1899.*

SIR: A Dominican this morning sought asylum at our legation and requested protection from arrest from Haitian Government, who, upon the demand of the Santo Domingo Government, on account of a secret treaty between the two Republics, are compelled to deliver all who are seeking to foment disturbances in the Republic of the other.

In examining the statement made I found this man to be one of the followers of Mr. Jimenez, who is endeavoring to overthrow the present existing Government in Santo Domingo.

I have refused to receive him or to give him the protection requested. I have based my refusal upon the following: That this legation can not afford protection or asylum to those who are actively conspiring against a government that we are holding friendly intercourse with, nor can it be used by those who seek asylum therein for the purpose of conducting or consummating plots against their Governments while we are giving them at the time immunity from arrest.

If I am wrong in this matter I will be glad if the Department will inform me. In requesting this information it may appear in conflict with my recent action that I have taken in affording protection and asylum to certain Haitians who have appealed to us for asylum during the pending troubles. These cases are not parallel; those that are here are men who have not conspired, and are not conspiring, so far as I know, but were innocent. I have further explained their cases in dispatch No. 623 (H) of this date.

I have, etc.,

W. F. POWELL.

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*Mr. Hay to Mr. Powell.*

No. 90.]

DEPARTMENT OF STATE,  
*Washington, September 2, 1899.*

SIR: I have received your dispatch No. 151, of the Santo Domingo series, dated August 14, in which you report your refusal of solicited asylum to a Dominican who thereby sought to escape proceedings in

extradition upon the demand of the Government of Santo Domingo in virtue of a secret treaty with Haiti for the mutual surrender of political disturbers.

The reasons leading to your decision appear to have rested mainly on the assumption that the applicant was in fact a conspirator against the peace of Santo Domingo, and might seek to conduct or consummate plots against that Government while enjoying immunity from arrest. You contrast his case with those of the Haitians recently sheltered by you, the latter having been so far as you know not conspirators, but innocent.

The Department does not think it necessary to discuss the reasons assigned by you for your action in this incident further than to question your capacity to judge of the guilt or innocence of persons applying to you for shelter, and to make your individual impression on this point the basis of your action in your character as to the representative of a friendly Government.

Your course may, however, properly be approved, not for the reasons given by you, but because it is not shown there existed such circumstances of danger from lawless violence as makes it sometimes permissible to afford shelter.

I am, etc.,

JOHN HAY.

## ECUADOR.

### ASYLUM TO GOVERNMENT OFFICIALS OF ECUADOR.

*Mr. Sampson to Mr. Hay.*

No. 89B.]

LEGATION OF THE UNITED STATES,  
*Quito, January 16, 1899.*

SIR: Since my last the revolution has assumed threatening proportions.

On the night of the 12th the army dug trenches and threw up barricades on all streets leading to the palace. Business was entirely suspended on the 13th and 14th, and a battle was expected hourly.

At 5 o'clock the minister of foreign relations came to inquire of me if the unexpected should happen and the Government should be defeated, would I give asylum to the Vice-President (acting President in the absence of President Alfaro in Guayaquil) and all the members of the cabinet with their families, and the chiefs of the army. On receiving assurances that I would, he returned thanks in the name of the Government and that of the individuals interested, saying they had full confidence in "the stars and stripes" of the United States.

Latest: Reports now indicate that the rebels have retreated, being afraid to make an attack.

Official and commercial business continues suspended.

I have, etc.,

ARCHIBALD J. SAMPSON.

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*Mr. Sampson to Mr. Hay.*

No. 96.]

LEGATION OF THE UNITED STATES,  
*Quito, February 15, 1899.*

SIR: The Government of Ecuador has made official proclamation of the suppression of the rebellion.

In the last battle over 600 were killed, several hundred mortally wounded, and over 400 prisoners taken.

I have, etc.,

ARCHIBALD J. SAMPSON.

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*Mr. Hay to Mr. Sampson.*

No. 72.]

DEPARTMENT OF STATE,  
*Washington, February 27, 1899.*

SIR: I have to acknowledge the receipt of your No. 89 B, of the 16th ultimo, stating that, on the request of the minister of foreign relations, you had promised asylum in case of need to the Vice-

President of Ecuador, now acting President at Guayaquil, the members of the cabinet, with their families, and the chiefs of the army.

The reported withdrawal of the revolutionary forces renders improbable that the asylum will be asked, but your attention is called to paragraph 51 of the Printed Personal Instructions, and to the uniform series of precedents cited in Wharton's Digest, volume 1, section 104, in discouragement of the practice of granting the so-called "asylum." You are also referred to Foreign Relations, 1895, page 245.

I am, etc.,

JOHN HAY.

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*Mr. Sampson to Mr. Hay.*

No. 109.]

LEGATION OF THE UNITED STATES,  
*Quito, April 10, 1899.*

SIR: Your No. 72, February 27, received. When I promised asylum, if need be, to the chief officials of this Government, as communicated in my No. 89, I had fully considered paragraph 51 of Diplomatic Instructions, Wharton's Digest (not here, for this legation has not these Digests), and Foreign Relations, 1895, but did not consider either of these an inhibition against what I agreed to do. Paragraph 51 refers to "unsuccessful insurgents" and "offenders against the laws." Foreign Relations, 1895, refers to "harboring offenders against the laws," as cited by Mr. Frelinghuysen. In the case therein passed upon those receiving asylum had assumed the offices by revolution, while in the case reported in my No. 89 I offered asylum to the regularly elected officers of the Government, and so recognized for years, from possible outrage at the hands of "offenders against the laws," virtually "cut-throats" and "outlaws." Had these taken the palace and made asylum necessary, it would not have meant their establishing a government to succeed the present, for President Alfaro, at the head of a large force, would have come from Guayaquil to dislodge the "offenders against the laws" and reestablish the Government officials in the palace. I would have saved from death the legitimate heads of the Government until such a time as they could again assume the functions of their respective offices.

Was I right? While the "revolution" is now ended, it does not mean that it will stay ended. It may come again while I am here, and I want to know if my interpretation of the law is not right. I can not see that the law cited applies to such a case as I reported; but, of course, I will obey your instructions.

I have, etc.,

ARCHIBALD J. SAMPSON.

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*Mr. Hay to Mr. Sampson.*

No. 89.]

DEPARTMENT OF STATE,  
*Washington, June 5, 1899.*

SIR: In your No. 89, of January 16, ultimo, you reported that the revolution had assumed threatening proportions; that—

the minister of foreign relations came to inquire of me if the unexpected should happen and the Government should be defeated, would I give asylum to the Vice—

President (acting President) and all the members of the cabinet, with their families, and the chiefs of the army. On receiving assurances that I would, he returned thanks in the name of the Government.

In your No. 109, April 10, ultimo, you state that if the asylum had been actually granted you—

would have saved from death the legitimate heads of the Government until such time as they could again assume the functions of their respective offices.

In the Department's No. 72, February 27, ultimo, you were referred to precedents found in Wharton's Digest and in Foreign Relations, 1895, page 245.

The discussions in Wharton's indicate the exceptional circumstances which warrant the granting of shelter to political offenders and the extreme circumspection which should be used in granting such applications. Its exercise is not the exercise of a strictly diplomatic right or prerogative; and, being founded alone in motives of humanity, it should be rigidly restricted to the necessities of the case, which are generally, if not always, characterized by features of lawlessness and mob violence. It should not be granted for the purpose of protecting fugitives from justice, guilty of common crimes.

In the case cited in Foreign Relations, 1895, Mr. Tillman afforded shelter to General Savasti, the late minister of war of the overthrown Government. Secretary Olney cautioned Mr. Tillman touching the exercise of the utmost care to avoid any imputation of abuse in granting such shelter, saying that it might "be tolerated should it be sought to remove a subject beyond the reach of the law, to the disparagement of the sovereign authority of the State." He added that—

It seems to be generally supposed that the case of a member of an overturned titular government is different; and so it may be until the empire of law is restored and the successful revolution establishes itself in turn as the rightful government, competent to administer law and justice in orderly process. Until that happens the humane accordance of shelter from lawlessness may be justifiable, but when the authority of the State is reestablished upon an orderly footing, no disparagement of its powers in the mistaken friction of extra-territoriality can be countenanced on the part of the representatives of this Government.

From the foregoing considerations it is evident that a general rule, in the abstract, can not be laid down for the inflexible guidance of the diplomatic representatives of this Government in according shelter to those requesting it. But certain limitations to such grant are recognized. It should not, in any case, take the form of a direct or indirect intervention in the internecine conflicts of a foreign country, with a view to the assistance of any of the contending factions, whether acting as insurgents or as representing the titular government.

I therefore regret that I am unable to approve the promise of shelter made by you to the members of the titular Government before the emergency had actually arisen for decision as to whether the circumstances then existing would justify or make it permissible; and especially am I unable to approve the apparent ground or motive of the promise, that you would have saved from death the legitimate heads of the Government "until such a time as they would again assume the functions of their respective offices."

The Government of the United States remains a passive spectator of such conflicts, unless its own interests or the interests of its citizens are involved; and I conceive that it might lead to great abuses in the grant of such shelter, which is afforded only from motives of humanity, if assurances were given in advance to the leaders of either

of the contending factions that they might carry the conflict to whatever extremes, with the knowledge that at last they should enjoy impunity in the protection of this Government, yet such might be construed as the practical effect of the assurance given in this case. I am therefore constrained to withhold my approval of the assurances given at the time and under the circumstances stated in your dispatches and as understood by the Department.

I am, etc.,

JOHN HAY.

### THREATS AGAINST MISSIONARIES.

*Mr. Sampson to Mr. Hay.*

No. 103.]

LEGATION OF THE UNITED STATES,  
*Quito, March 15, 1899.*

SIR: The attached inclosures, 1, 2, and 3, are largely self-explanatory.

No. 1 is copy of letter received from two American Protestant missionaries in Quito.

Immediately on receipt of it I wrote a letter to this Government, accompanying it by a translation into Spanish. Otherwise its contents might not be known by officials for two or three days, until the translator got ready to translate it. I then delivered it in person, to see its effect, which was most salutary and effective. I was then given positive assurances, orally, by the minister of foreign affairs (and Vice-President and Acting President Cueva, who happened to be present) that prompt and active steps should be taken for the protection of American missionaries and the punishment of offenders.

This personal assurance was followed by a very satisfactory official answer. (See inclosure 3.) Unofficially I have learned that soldiers were detailed to go to the cathedral and other churches to hear if any more denunciation of Protestant missionaries should be indulged in, while police were sent to protect their homes. They have suffered no further molestation. Nine arrests have been made and the offenders are in jail awaiting trial.

Missionaries in China or Turkey were never in more imminent peril. Prompt, decisive action of the Government is all that averted a killing of the missionaries here—nine in all.

I have, etc.,

ARCHIBALD J. SAMPSON.

[Inclosure 1.]

*Messrs. Tarbox and Fritz to Mr. Sampson.*

*QUITO, March 11, 1899.*

DEAR MR. SAMPSON: It having come to our knowledge that the priests were using the pulpit of the cathedral to excite the people to kill us, we asked a friend, Señor Pablo J. Guteirez, to go and listen to what was being preached.

To-day at the noon service a priest by the name of Matens gave a most inflammatory address, using the following significant language:

"If the Virgin Mary does not convert them it is necessary that they be taken out of the city, and if not, they must be destroyed." Last Wednesday similar language was used. Already we are seeing the fruits of such malicious words, for Thursday evening last a large crowd came to our house, bent on mischief, using the most

threatening language, such as "Kill the Protestant devils," etc. Everything indicated that we would have suffered bodily harm if the police had not interfered and driven them away. Our windows also have been stoned.

In view of the above facts, we, as American citizens, feel it necessary to ask you to take what steps you may think proper to stop such preaching and to give us proper protection for life and property.

Yours, faithfully,

E. B. TARBOX,

W. G. FRITZ,

*Christian and Missionary Alliance of New York.*

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[Inclosure 2.]

*Mr. Sampson to Mr. Peralta.*

No. 66.]

UNITED STATES LEGATION,  
*Quito, Ecuador, March 11, 1899.*

SIR: I have in my possession unquestioned proof of outrages perpetrated against the house and person of Protestant missionaries in this city, citizens of the United States, within the last week by citizens of Ecuador; and more, that within the same time Catholic priests have publicly proclaimed in the cathedral of this city in the hearing of many people that these "Masons," meaning "Protestant missionaries," "must be stopped preaching, must be gotten rid of in some way," by such language inciting fanatical and evil-disposed persons to take their lives.

I now officially advise you of these outrages, and notify you that if harm comes to any of said citizens of the United States the Government of the United States will consider itself as the injured party, and govern itself accordingly.

Prompt, concerted, efficient action on the part of your Government can stop such preaching, punish the offender, and prevent insult and harm to citizens of the United States.

If you desire my cooperation in any manner, please advise me at once.

I have, etc.,

ARCHIBALD J. SAMPSON.

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[Inclosure 3.—Translation.]

*Mr. Peralta to Mr. Sampson.*

No. 43.]

QUITO, *March 13, 1899.*

MR. MINISTER: I have carefully noted your kind dispatch, No. 66, in which your excellency notified me of the danger that threatens the Protestant missionaries in consequence of the preaching of some Catholic priests.

In answer, I have the honor to communicate to your excellency that I have to-day sent to the illustrious archbishop of this archdiocese to put a stop to such irregularities; and also to the general director of the police, ordering him to inflict the punishment provided by law for such wrongs.

I have, etc.,

J. PERALTA.

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*Mr. Hay to Mr. Sampson.*

No. 81.]

DEPARTMENT OF STATE,  
*Washington, April 10, 1899.*

SIR: I have to acknowledge the receipt of your No. 103, of the 15th ultimo, reporting your intervention with the Government of Ecuador in behalf of certain American missionaries of the Protestant faith, whose lives and property have been threatened in consequence of inflammatory utterances in the pulpit by priests of the Roman Catholic faith.

The Department is gratified that your representations were effective in securing proper police protection for the lives and property of American citizens. The reported utterances of the ecclesiastics of the Roman Church seem to have gone far beyond the liberty of speech which exists in republican communities, and, inasmuch as the church in Ecuador is a State institution, it was proper to call the attention of the responsible Government to the incendiary provocations of the clergy. The Ecuadorian Government appears to admit and accept its disciplinary function in the premises.

I am, etc.,

JOHN HAY.

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SUMMONS ISSUED AGAINST CONSUL-GENERAL OF THE UNITED STATES  
AT GUAYAQUIL.

*Mr. Sampson to Mr. Hay.*

No. 138.]

LEGATION OF THE UNITED STATES,  
*Quito, September 1, 1899.*

I hereby inclose copy of a letter sent to the minister of foreign relations of Ecuador, July 28, 1899, which is self-explanatory.

The date of its delivery I was assured I should have speedy answer, but none has yet come. To-day in a conversation with said minister, he claimed that there was no cause of complaint on the part of the United States; that it was an offense for the officer to enter the consulate to serve a summons on the consul-general, but no greater or different offense from that if he had entered any private residence in the city for such a purpose; that he is liable to punishment, but only by the local law as in other cases; that the subcommissary of police, in using abusive, insulting language about said consul-general, was guilty of no other or greater offense than if he had so abused any of his fellow-citizens.

The consul-general feels greatly outraged at the invasion of his consulate, especially as the officer brought with him a drunken discharged employee who had robbed him of about two hundred sucres. \* \* \* What can I do further in this matter? If I had Wharton's International Law here I could decide, but in its absence must appeal to you for advice.

Second. If an American citizen should enter, uninvited, the consulate and insult or assault the consul-general, would he be subject to any other or greater punishment than a citizen of this country?

An answer specially important.

I have, etc.,

ARCHIBALD J. SAMPSON.

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[Inclosure in No. 138.]

*Mr. Sampson to Mr. Peralta.*

No. 90.]

UNITED STATES LEGATION,  
*Quito, Ecuador, July 28, 1899.*

SIR: I am just advised that Subcommissary of Police Landin, of Guayaquil, issued a summons in a civil suit against the United States consul-general in Guayaquil, requiring him to appear before him and answer certain complaints in debt (I am assured



most unjust demands), and when he did so appear used insulting and abusive language of and toward him. Said summons was served by an officer entering, without permission, the consulate-general.

Appeal was made to the governor, who had failed to afford relief.

Will you see that said Officer Landin is punished according to your law for insult offered the consul-general, and the officer for violating the sanctity of the consulate-general?

I have, etc.,

ARCHIBALD J. SAMPSON.

I have since learned that the consul-general did not appear before the subcommissary of police, but his secretary did, and heard the abusive statements.

A. J. SAMPSON, *Minister*.

*Mr. Hay to Mr. Sampson.*

No. 106.]

DEPARTMENT OF STATE,  
*Washington, October 5, 1899.*

SIR: Your dispatch No. 138, of the 1st ultimo, has been received. You therewith inclose copy of a note addressed by you to the minister of foreign relations in the matter of the summons issued against the consul-general of the United States at Guayaquil, and state that in conversation with you on the subject the minister claimed that the offense committed was no greater than if committed against a private citizen, and punishable only by the local law; that there was no cause of complaint on the part of the United States.

You ask what you can do further in the matter.

It would seem proper for you to ascertain whether consular officers of any foreign country, by treaty with Ecuador, enjoy immunity from service of judicial process in such cases. If so, any consular prerogatives extended to other powers may be expected and properly asked of Ecuador as a friendly courtesy to this Government, although there is no treaty between the two countries on this subject.

Unless the offensive action of the Ecuadorean official while serving the summons is made punishable by some law of Ecuador especially applying to offenses against foreign consular officers, he would appear to be subject only to the general law applicable to offenses against private individuals.

The United States has a special law making it a penal offense to "assault" or "offer violence to the person of a public minister, in violation of the law of nations," but there is no such law applying to consular officers. It is presumed the same may be the case in Ecuador. In accordance with your request, copy of Wharton's Digest is sent to you under separate cover.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Sampson.*

No. 126.]

DEPARTMENT OF STATE,  
*Washington, January 31, 1900.*

SIR: Referring to the Department's No. 106, of October 5 last, relative to the summons issued against the United States consul-general at Guayaquil, I inclose copies of two dispatches from that officer, from which it appears that the President of Ecuador has expressed regret at the incident, and that the police magistrate has been removed from office.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

*Mr. de Leon to the Department of State.*

No. 83.]

CONSULATE-GENERAL OF THE UNITED STATES,  
*Guayaquil, Ecuador, January 4, 1900.*

SIR: I have the honor to acknowledge your No. 51. I fear I am likely to obtain no satisfaction for the outrage perpetrated by the Ecuadorean police magistrate, Landin.

Permit me to say that I make no complaint in regard to the serving of summonses. I am well aware that a consular officer is not exempt from civil process, even in cases like my own, where the claims are baseless and brought to annoy him. What I do complain of, and what I hoped the Department would require redress for, are the false and insulting remarks made about me by the police magistrate in open court, without the slightest justification, and the invasion of the consulate and my residence (even my bedroom) by a constable entering them to serve the summonses. This I regard as an outrage on the United States as well as myself. Even were I a citizen of Ecuador, my residence could not legally have been entered, while, as consul-general of the United States, I claim the consulate is equally inviolable. I can not see what bearing, therefore, your remarks, the "immunity from service of judicial process enjoyed by consular officers of other governments stationed in Ecuador," has upon the case in question. I hope you will concur in my views, and that Minister Sampson will be instructed to exact an apology from the Ecuadorean Government. \* \* \*

PERRY M. DE LEON, *Consul-General.*

[Inclosure 2.]

*Mr. de Leon to the Department of State.*

No. 85.]

CONSULATE-GENERAL OF THE UNITED STATES,  
*Guayaquil, Ecuador, January 10, 1900.*

SIR: I have the pleasure as well as the honor to state that in an interview I had last evening with President Alfaro, who is here on a visit, he censured Landin for his conduct and expressed his sincere regret for the occurrences, assuring me of his personal regard and thanking me for the reports I have from time to time made upon Ecuador.

I have also the pleasure to state that Landin has lost his office, the municipality a few days since appointing Señor Icaza to succeed him. So terminates this disagreeable incident. I trust the next treaty with Ecuador will preclude similar trouble in the future.

I have, etc.,

PERRY M. DE LEON, *Consul-General.*

## FRANCE.

### MILITARY SERVICE—CASE OF FELIX H. GENDROT.

*Mr. Vignaud to Mr. Hay.*

No. 420.]

EMBASSY OF THE UNITED STATES,  
*Paris, February 13, 1899.*

SIR: I inclose herewith copy of a letter received from Mr. Felix A. Gendrot, a natural-born American citizen, who is claimed as French because his father was French, and copy of a note addressed on the 6th instant to the minister of foreign affairs, asserting that Gendrot is an American citizen and asking that he be recognized as such.

The case of Gendrot is well known to the Department. It was once before submitted to the French Government by this mission, and decided against, as may be seen by the correspondence published in the volume of our Foreign Relations for 1888.

Gendrot, who lives in the United States, where he has a wife and children, came back to France a few weeks ago with the purpose of remaining here for a short time only. His presence was almost immediately detected, and he was notified to appear before the military authorities to explain why he did not comply with the order issued to him in 1887 to join the regiment to which he had been assigned. He applied to this embassy for protection, and although there is very little hope of succeeding in this second effort in his behalf, I have not hesitated doing so, for the reason that Gendrot's position is somewhat different now from what it was in 1887. Having passed the age of serving in the active army, he can, according to the law of 1889, renounce French citizenship without the permission of the French Government and they may recognize him as an American citizen.

His case comes up before the second council of war on the 18th instant. Being asked if he had a lawyer, he replied in the negative, and the court provided him with one, who is a gentleman unknown to this embassy, Mr. Crochard, to whom I have sent word through Gendrot that this embassy would furnish him with all the information he may need regarding the case. I anticipate that the court will hold that, for the military authorities, Gendrot is French, and as such must be punished for having failed to comply with the military laws of France, but will leave him the right to appeal from their decision to a civil court, where the question of nationality would be finally decided. Gendrot states that, should this be the case, the want of funds would prevent him from taking any action of this kind.

I have, etc.,

HENRY VIGNAUD.

[Inclosure.]

*Mr. Gendrot to Mr. Porter.*109 RUE DU CHERCHE MIDI,  
*Paris, February 5, 1899.*

DEAR SIR: I wish to inform you that Felix A. Gendrot, born in the city of Cambridge, State of Massachusetts, the 28th of April, in the year 1866, has been called by the French Government to appear before a council of war to give my reason for not having complied with their demands in 1887 in regard to doing military duty.

I think you will find my case on file at your embassy.

Now, in view of the facts that I was born, brought up, and educated in the United States, and being a citizen and a voter, having all my interests there, and will return in a year or two after completing my studies, I feel I am an American and that I owe nothing to France.

There must be something radically wrong when a man can have two nations to serve, and should there be war between them I would be in a strange dilemma. I could not very well cut myself in two; at all events, I am the one to suffer. I don't mean to say that a war is probable, but yet possible.

Being vested by the United States law as a citizen, and considering myself as such, I call upon you for protection and aid.

I am, etc.,

FELIX A. GENDROT.

[Inclosure 2.]

*Mr. Vignaud to Mr. Delcasse.*EMBAASSY OF THE UNITED STATES.  
*Paris, February 10, 1899.*

SIR: I have the honor of submitting to your excellency the following case:

Mr. Felix Albert Gendrot is an American citizen, born at Cambridge, Mass., on the 28th of April, 1866. He was brought up and educated in the United States, where his home is, where he has a wife and children, and where he has discharged all the obligations incumbent on a native-born American citizen. He has never resided in France. In 1887 he made a short visit to Paris, and was then informed that, being the son of a Frenchman, he had to perform military service in the French army. He appealed to his Government for protection, and, in the year above mentioned, this embassy, then a legation, laid the case before your department, stating that Gendrot was a natural American citizen; that, having never been in France before, he did not flee to escape any obligations, of which he had never heard, and that even if the fact of his being the son of a Frenchman made him French originally, he, as well as his father, according to the law as it then stood, had forfeited their right to French nationality by being permanently established in a foreign country, which they had no intention of leaving, and accepting the honors and burdens of citizenship of that country.

The application was unsuccessful, and Gendrot, who at that time could hardly speak French, returned to his home in the United States. He is now again in Paris, and has been summoned to explain why he did not serve his time in the French army. He again appeals to his Government for protection, and I once more lay the case before your excellency. Being born in April, 1866, he is close on to 33 years of age, and has therefore passed the age for military service in the active army. The law no longer prevents him from declining French nationality without the consent of the French Government, and it is within the power of that Government to recognize that Gendrot is what he claims to be and what his Government, speaking through this embassy, asserts he is—a bona fide American citizen.

I respectfully call your excellency's attention to these new features of the case.

I avail, etc.,

HENRY VIGNAUD,  
*Chargé d'Affaires ad Interim.*

P. S.—In 1887, when Gendrot was in Paris, he went by the name of Albert Felix Gendrot. He had not then his certificate of birth, showing that his real name was Felix Albert.

H. V.

*Mr. Porter to Mr. Hay.*

[No. 427.]

EMBASSY OF THE UNITED STATES,  
*Paris, February 24, 1899.*

SIR: Referring to Mr. Vignaud's No. 420, of February 13, concerning the citizenship of Mr. Gendrot, I have now to report that his case came up before the second council of war on the 18th instant, and that upon the application of his lawyer—a lawyer given him by the court—it was postponed in order to give Gendrot time to have the question of his nationality decided by a civil court. Gendrot's lawyer informs this embassy that if no step of this kind is taken his client will be brought up again before the military court, where he is sure to be sentenced to imprisonment and be obliged to serve some time in the French army.

I inclose herewith copy of a letter received from Gendrot, in which he claims the protection of this embassy as an American citizen and asks to be provided with the necessary means for bringing before a French civil court the action without which his rights will not be respected.

I respectfully ask for authorization to comply with this request.

I have, etc.,

HORACE PORTER.

[Inclosure.]

*Mr. Gendrot to Mr. Porter.*AMERICAN ART ASSOCIATION, 2 IMPASSE CONTI,  
*Paris, February 17, 1899.*

DEAR SIR: Being a citizen and born in the United States, I come to ask the ambassador for the protection and aid he owes his countryman.

My case has already been the object of diplomatic correspondence in the year 1888, as that period, while sojourning in France, the French Government called upon me to do five years' military service, basing their claim upon the fact that I was born of French parentage. I was arrested, released, and was about to be arrested a second time when I departed for the United States.

In the diplomatic correspondence that took place the minister of foreign affairs, Mr. Flourens, replied to the United States ambassador that if I insisted upon claiming American citizenship I was at liberty, in order to establish my true position, to apply to the civil courts; only on seeing a decision of the French courts declaring I am a foreigner can the military authorities consent to order that my name be stricken from the rolls of the French army?

At that period I was ignorant of this means of repudiating the quality of Frenchman.

But recently having arrived in France for the purpose of study, I was arrested as (*ensoumie*), and am about to pass before the second council of war to-morrow. If I do not find means to stay the proceeding I am liable to be condemned to from one month to one year imprisonment.

My lawyer will try to secure a postponement of the case, declaring that you, the United States ambassador, was having official correspondence with the French Government in my behalf. However, he considers that this means is not a legal one, and that the judges could ignore this appeal and pronounce their verdict. He says, should I address a request to the French civil court, that tribunal, by having taken up the question of my citizenship, would thus prevent the council from passing finally upon my case until the civil court rendered its verdict.

He also believes that, my case being a peculiar one, the courts might find that I could repudiate the quality of French citizenship in view of article 17 of the Code Civil, which says, to lose the rights of French citizenship, first, "A Frenchman naturalized in a foreign country." Having been born and lived for twenty-six years in the United States, and am a voter there, it seems to me I am less of a Frenchman than one born in France and who has been naturalized in the United States.

This civil case that M. Flourens has indicated might terminate in my favor and which is actually the only means out of my present difficulty.

In view of my United States citizenship, and not having the means to protect myself, I appeal to the United States Government, or to you, its ambassador, to give me the means to carry on this civil case, or to carry it on for me.

There is a grave question of principle in my case, and should the verdict be in my favor it would establish an important precedent.

I am persuaded that this question interests in the highest degree the rights of American citizens abroad.

I am, etc.,

FELIX A. GENDROT.

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*Mr. Hay to Mr. Porter.*

No. 566.]

DEPARTMENT OF STATE,  
*Washington, March 3, 1899.*

SIR: Mr. Vignaud's dispatch, No. 420, of the 13th ultimo, relating to the return to Paris of Mr. Felix A. Gendrot, whose military case was the occasion of controversy with the French Government in 1888, and his arrest in connection with his previous alleged evasion of military service, has been received.

The Department recently received from Mr. Stevenson Burke, of Cleveland, Ohio, a letter (of which copy is inclosed herewith) addressed to Mrs. Burke by Mr. Gendrot, describing his surreptitious return to Paris, "thinking," as he says, "that in so large a city and remaining unknown I [he] could carry on my [his] studies without trouble and at the end of a year or two return to the States," in which expectation he appears to have been disappointed.

Mr. Gendrot's action has very unnecessarily complicated the matter to his prejudice, but in view of the attitude taken by this Government when the question originated in 1888, and in view also of the suggestions made by Mr. Vignaud, it is hoped that you will find an opportunity to further Mr. Gendrot's interest and effect his release from the embarrassing situation in which he has placed himself. I inclose copy of a letter written to Mr. Gendrot in November, 1897, to which I have referred in my reply to Mr. Stevenson Burke, copy of which is also inclosed for your information.

I am, etc.

JOHN HAY.

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[Inclosure 1.]

*Mr. Burke to Mr. Hay.*

HICKOX BUILDING, CLEVELAND, *February 21, 1899.*

MY DEAR SIR: I inclose to you a letter from Mr. Felix A. Gendrot, who, as his letter points out, was a native of Boston, Mass., and whose father, I believe, was a Frenchman—whether naturalized or not, I do not know. Mr. Gendrot is an artist, and he wrote the inclosed letter to my wife, who, as treasurer of the Art School Association, was very well acquainted with him, he having taught in the art school, and also in the university school, in this city. I have a personal acquaintance with him, and know that he is very much of a gentleman, and entitled to all the protection which the Government can afford.

I think I shall take the liberty to write a personal letter to Minister Porter at Paris; but this would be only to assure General Porter, whom I know quite well, of my personal knowledge of the standing of Mr. Gendrot.

You will note that the question is a most important one, and it may affect many others besides Mr. Gendrot.

You will know, however, how to deal with it, and I trust you will give the matter such attention as its public interest and the personal interest of Mr. Gendrot requires.

With kindest regards to yourself personally, I am,

Very truly, yours,

STEVENSON BURKE.

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[Subinclosure.]

*Mr. Gendrot to Mrs. Burke.*

PARIS, *le January 31, 1899.*

MY DEAR MRS. BURKE: It has been my intention to write you and tell you of my sojourn in Paris, and how I was getting on in my work, etc., but I am somewhat embarrassed that for my first letter I should ask you for a favor. To come to the point, it is my trouble with the French Government. Should you not know the details of the case, and as it would be too long for me to write them, I think Miss Norton or Miss Harper could give you them. Now, to begin with the story of my trouble: I came to Paris thinking that in so large a city, and remaining unknown, I could carry on my studies without trouble, and at the end of a year or two return to the States. Notwithstanding the fact that eleven years have passed since my first trouble, the French Government located me and put me under arrest, but has released me pending an investigation into the case. I have called on the American ambassador for protection, and he will no doubt communicate to the Government at Washington. My favor is, if you will be so kind, that you use your personal influence with the Secretary of State, as I think he is a Cleveland man and no doubt a friend of yours. I thought a letter from the Judge would be instrumental in the Secretary taking more interest in the case. I would have written to the Judge personally, but I feared that he would not remember me, and by writing you you could explain the matter to him.

My argument is that I was born, brought up, educated in the United States, lived most of my life, and have all my interests and intend to return there, and that I owe nothing to France, and from these facts it seems to me that the French Government should have no claim on me.

Now, to show the injustice of their law in my case, should I be forced to do military duty, it would establish beyond question that I was a French citizen, and, as far as the United States was concerned, I still would be an American citizen after my service here. Should I go back to the States, settle there, get married, and have children, my children would be born of a Frenchman and subject to military duty in France, and would find themselves in precisely the same position as I am at present. For my children, to avoid military duty in France and be recognized as Americans by the French law, I would first have to become a naturalized American through process of law, a thing that can not be done; that is, I can not become naturalized through process of law, as I am already a citizen of the United States. And this process of taking American-born citizens to serve France would go on indefinitely, or at least until the United States should stand firmly by and demand the French Government to recognize the American-born citizens. And that is what I should like to have the United States Government do for me *now*—to have France recognize me as an American citizen.

You will please excuse writing, as I have written in haste.

Hoping it is in your power to do this favor for me,

I remain, etc.,

FELIX A. GENDROT.

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[Inclosure 2.]

*Mr. Hay to Mr. Burke.*

DEPARTMENT OF STATE,  
*Washington, March 3, 1899.*

SIR: I have to acknowledge the receipt of your letter of the 21st of February in relation to the arrest of Mr. Felix A. Gendrot, who, having had trouble with the French Government in 1888, growing out of a claim to his military service as the son of a Frenchman (although himself born in the United States), has recently returned to France and been arrested at Paris on the charge of evasion of army duty.

A dispatch received from the United States embassy at Paris, under date of February 13, ultimo, reports the arrest of Mr. Gendrot and the steps taken by the embassy to afford him all possible relief from the situation in which he has voluntarily placed himself by returning to France, against the advice of this Department, given him on the 26th of November, 1897, by the letter of which I inclose a copy for your information.

Mr. Vignaud, chargé d'affaires of the United States at Paris, states that Mr. Gendrot's case was to come up before the second council of war on February 18, and he anticipates that the military court will hold that, so far as the army authorities are concerned, Mr. Gendrot is French and, as such, liable to punishment for having failed to comply with the military laws of France, but that such action will still leave to him the right of appeal from the decision of the military court to a civil court, where the question of nationality would remain to be finally decided. Mr. Vignaud adds that Mr. Gendrot, having passed the age of service in the active army, can, according to the law of 1889, renounce French citizenship without the permission of the French Government, and that the civil court may perhaps recognize him as an American citizen. Mr. Gendrot, however, states that want of funds would prevent him from taking appeal.

The ambassador has been instructed to continue to do all that he properly can to effect Mr. Gendrot's release.

I am, etc.,

JOHN HAY.

[Subinclosure.]

*Mr. Adeo to Mr. Gendrot.*

DEPARTMENT OF STATE,  
Washington, November 26, 1897.

SIR: Your letter of November 17, making inquiries as to your present status with regard to the claim of your allegiance heretofore put forth by the French Government, has been received and considered, and I am directed by the Secretary of State to make reply thereto.

Your case is an interesting one, and the correspondence had on the subject in 1888 is printed in the volume of Foreign Relations of the United States for that year, pages 495, 497, and 498.

Your case was then held to be one of those common in private international law wherein the individual is invested with a dual allegiance, each complete in its own sphere. By your birth at Cambridge, Mass., April 28, 1866, you were held by the law of the United States to have possessed the status of an American citizen while subject to the jurisdiction of the United States. By the French laws, being born abroad of French parents who never lost their French status, you were a natural-born French subject so far as the jurisdiction of France is concerned. Being held for military service in France, you appear to have taken Mr. Bayard's advice, then given to Minister McLane, to elect and maintain your American nationality by a prompt return to this country. Such return, however, could not affect the proceedings instituted against you under French law within French jurisdiction further than to leave them undetermined or determinable by a judgment pronounced by default, of which, however, the Department is not advised.

The purport of your present inquiry is not clearly understood. You ask whether you would be entitled as an American citizen to the protection of the United States Government under the circumstances you recite, and you conclude by requesting to be informed fully as to your rights under the circumstances.

As to your rights as a citizen of the United States there can be no question so long as you are within the jurisdiction of the United States, and, although this is a hypothetical case, you would possess equal rights and be entitled to equal protection in the territory of a third state. But should you voluntarily put yourself within French jurisdiction, the dual claim of that country to your allegiance would revive and you could scarcely hope to escape judicial proceedings, perhaps under added disadvantage of being regarded as a fugitive from military service by reason of your return to the United States in 1888. There is no naturalization treaty between the United States and France. Under the French code a person born a Frenchman can only lose that status by process of law, one of the causes of such loss being naturalization in a foreign country. You have not been naturalized in the United States, and the fact of your being born in the United States is by French law no bar to the French claim upon your allegiance; it is, on the contrary, a case expressly provided for by that law,



so that the French courts would be precluded from declaring you to be anything but a French citizen should the case actually arise for judicial determination. This contingency, however, could not arise, so far as seen, except by your own voluntary act in returning to France, and in such a case it is doubtful if this Government could efficiently protect you outside of its own jurisdiction.

Respectfully, yours,

ALVEY A. ADEE,  
Second Assistant Secretary.

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*Mr. Porter to Mr. Hay.*

No. 434.]

EMBASSY OF THE UNITED STATES,  
*Paris, March 16, 1899.*

SIR: I have to acknowledge the receipt of your No. 566, of March 3, concerning the case of Gendrot. No further steps seem to have been taken in the matter since my writing you on February 24. But Gendrot will surely call one of these days to say that his civil suit is fixed for a certain day and to ask that legal assistance be given him. He does not seem to realize that under the circumstances it would have been better for him to abstain from visiting France; he insists that he is a native-born American citizen and as such claims the protection of our Government. If properly assisted, the French civil court might possibly recognize his American title, because his case differs from the others in this important particular, that he has not committed the offense of renouncing French citizenship and of assuming another nationality of his own volition, an offense specially mentioned in the law of June 26, 1889. In his case the presentation of naturalization papers would have weakened his position. Besides, Gendrot holds that he is a native-born citizen and does not want to change his status as such for that of a naturalized citizen. The case is an interesting one and deserves the attention of the embassy.

I have, etc.,

HORACE PORTER.

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*Mr. Hay to Mr. Porter.*

No. 590.]

DEPARTMENT OF STATE,  
*Washington, March 31, 1899.*

SIR: I have received your dispatch No. 434, of the 16th instant, in further relation to the case of Gendrot.

You report that no further steps seem to have been taken in the matter since your dispatch of February 24, but that Gendrot will surely call one of these days to say that his civil suit is fixed for a certain day and to ask that legal assistance be given him. You add that, if properly assisted, the French civil court might possibly recognize Gendrot's American title, because his case differs from the others in the important particular that he has not committed the offense of renouncing French citizenship and assuming any other nationality of his own volition, and that you think the case is an interesting one and deserves the attention of the embassy.

Although you do not expressly request instructions as to the employment of counsel in Gendrot's behalf, it seems proper, in the light of

what you say, to instruct you upon this point. The Department would not favor taking original steps to promote an appeal of the case to the civil court, but should the contingency arise and Gendrot's case actually be before that court, and it be satisfactorily shown to you that Gendrot is without money or property and is unable to employ counsel, you are authorized, but only in those contingencies, to arrange with the gentlemen from whom the embassy takes legal counsel to look after the case in the civil branch, with the understanding, if necessary, that a reasonable fee may be charged for the service performed. In the event of their so serving, you will report the fact to the Department and render special account for the fee should it be asked.

The matter is necessarily left largely to your discretion. Gendrot, by his acts, has somewhat prejudiced himself in the eyes of the Department, but his personal merit or demerit as an American citizen in distress should not enter into your determination so much as the likelihood of carrying the matter to such conclusion as will afford a favorable precedent for future cases.

I have, etc.,

JOHN HAY.

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*Mr. Porter to Mr. Hay.*

No. 448.]

EMBASSY OF THE UNITED STATES,  
*Paris, April 5, 1899.*

SIR: Referring to previous correspondence concerning the case of Gendrot, I now send a copy and a translation of Mr. Delcassé's reply to my statement that Gendrot was a native-born American and claiming him as such. In this reply the minister of foreign affairs, expressing the view of the minister of justice, assumes quite a new position. In its correspondence with this embassy, and particularly in the case of Giron (1897), the French Government had admitted that a Frenchman having passed the age of service in the active army was no longer obliged to obtain permission from the French authorities to change his original nationality, an admission which is in strict conformity with the revised article 17 of the Civil Code. It is now contended for the first time that no Frenchman has the right to change his nationality without the consent of the French Government, if he has not complied with the military laws, whether he has passed or not the age of doing military service. No law is quoted in support of this view. Mr. Delcassé's note might call for other remarks, but as it is admitted that Gendrot can have his case settled by appealing to a civil court, and as he has chosen to do so, I shall let the matter rest until a decision is obtained or until further instructions are received from the Department if it is deemed advisable to send any.

I have, etc.,

HORACE PORTER.

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[Inclosure.—Translation.]

*Mr. Delcassé to Mr. Porter.*

PARIS, March 29, 1899.

MR. AMBASSADOR: On the 10th of February last your excellency was good enough to call the attention of my department to Mr. Felix Albert Gendrot, born at Cambridge, Mass., April 28, 1866, of French father, who claims American citizenship.

Mr. Gendrot, who is at present in France, was recently called before the military authorities at Paris to make known the motives which prevented him from complying with the recruiting obligations. You remark that the individual in question, being born in the United States, was considered by the Federal authorities as an American citizen, and that, having never lived in France, he, like his father, also must have lost his title to French citizenship according to the old article 17, section 3, of the Civil Code, by being established abroad without any intention of returning. You added that the person in question had passed the age of military service in the active army, and that, consequently, he could decline French citizenship without the consent of the Government of the Republic.

My colleague, the minister of justice, to whom I did not fail to communicate this information, remarks to me this day that it does not belong to him to examine whether Gendrot can claim American citizenship because he was born in the United States. Each country is free and independent in the exercise of its sovereignty, but there is no doubt that this individual must be considered with regard to French law as French, in accordance with article 8, section 1, of the Civil Code (old article 10).

As to the question whether an individual has lost his title to French citizenship by establishing himself abroad without any intention of returning, it depends on circumstances of the fact, which the courts, sovereign judges in questions of nationality, can alone decide, and if Gendrot proposes to invoke this motive he can submit his case to the judicial authorities.

Lastly, the fact that the interested party has passed the age of military service in the active army does not give him the right to claim foreign nationality. He could oppose this foreign title only by showing that he has been naturalized in the United States in accordance with the laws in force. Now, such is not the case. Moreover, in order to acquire validly, with regard to the French Government, American naturalization he should have a formal authorization. He is, in fact, to-day still subject to the obligations of military service in the active army, because he is in the position of one who has been omitted or who did not submit. It is the fact of having complied with the obligations of the military service in the active army and in the reserve, and not the fact of having reached the age when one is transferred to the territorial army, which enables a Frenchman to have himself naturalized abroad without the consent of the Government.

Under these conditions, the keeper of the seals is of opinion that until a contrary decision is obtained from the courts Gendrot should be considered as being of French nationality.

Accpt, etc.,

DELCASSÉ.

#### VISIT OF EX-PRESIDENT HARRISON TO FRANCE.

*Mr. Hay to Mr. Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 15, 1899.*

PORTER,  
*Ambassador, Paris:*

Ex-President Harrison expected arrive in France about Wednesday, 24. Have authorities notified, so that any proper courtesies may be extended.

HAY.

*Mr. Porter to Mr. Hay.*

No. 487.]

EMBASSY OF THE UNITED STATES,  
*Paris, June 8, 1899.*

SIR: With reference to your cable of May 15, instructing me to notify the French authorities that ex-President Harrison would shortly arrive in France, I have to report that your instructions were complied

with, and that Mr. Harrison has been the recipient of many courtesies on the part of the French Government. An official of high rank waited on him when he landed at Havre and welcomed him officially to France. A gentleman belonging to the foreign office, representing the French Government, was sent to receive him at the station, where he was met by Mr. Vignaud and myself when the train arrived from Havre.

I arranged interviews between him and the minister of foreign affairs, the president of the council, and the president of the Senate and the Chamber of Deputies.

President Loubet entertained him and Mrs. Harrison at dinner and gave them the seats of honor at his table. He also sent them twice his box at the opera and invitations to his tribune at the races, and they received similar courtesies from other members of the Government.

I have, etc.,

HORACE PORTER.

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**"ANTHONY POLLOK MEMORIAL PRIZE."**

*Mr. Adee to Mr. Porter.*

No. 657.]

DEPARTMENT OF STATE,

*Washington, August 11, 1899.*

SIR: The heirs of the late Anthony Pollok, of Washington, D. C., have decided to found a prize in his memory, to be known as the "Anthony Pollok Memorial Prize."

Mr. and Mrs. Anthony Pollok were passengers on the steamer *La Bourgogne*, and were lost when that vessel sank after collision with the *Cromartyshire* off Sable Island, on July 4, 1899.

Mr. Pollok was held in the highest esteem by all who were privileged to know him and were aware of the many good deeds he did with a characteristic avoidance of ostentation. By his relatives and a wide circle of friends he is deeply mourned.

A graduate of the Ecole Centrale of Paris, Chevalier of the Legion of Honor of France, counselor at law at Washington, he owed his success to no happy incident, to no special favor of fortune, but to sheer force of character.

His name is prominently connected with many of the most important inventions of the last half of the nineteenth century, and will always be remembered as a potent factor in the development of the patent system.

He cherished a dream of universal patent practice embracing all the nations of the world, and inspired in France the first step toward its realization in the International Convention for the Protection of Industrial Property, of which he was vice-president. When the United States at first refused its adherence he aroused the interest of the manufacturers, and appeared twice before the Committee on Foreign Affairs of the United States Senate, answering objections and advocating the measure in printed briefs and oral arguments, finally attaining the object of his efforts.

With sorrowing hearts and profound respect, those who loved him and deplore his loss have founded this prize in sacred remembrance of their affection and as a crowning monument to honor and perpetuate the memory of Anthony Pollok.

The prize is a donation of 100,000 francs, to be awarded to the inventor of the best apparatus for the saving of life in cases of maritime disaster, and is to be open to universal competition. This sum is now on deposit with the American Security and Trust Company, of Washington, D. C., whose reliability is beyond question, and will be paid over to the successful competitor when a decision shall have been rendered by an appointed jury, and formally communicated to the Secretary of State through the Commissioner-General of the United States to the international exposition at Paris in 1900.

The juror selected on behalf of the Government of the United States is Lieut. William S. Sims, U. S. N., naval attaché of the embassy of the United States at Paris. It is understood that the French Government will name a juror who, in conjunction with Lieutenant Sims, will select a third, to be chosen from one of the citizens or subjects of a state whose nation is a competitor.

In considering the award the jury will be governed by the following conditions:

(1) The total amount of the prize may be awarded to a single individual, on condition that the invention is of sufficient practical value and importance to justify the proposed award.

(2) Should several persons enter inventions of equal value the jury, as it shall consider right and just, may award a portion of the prize to each.

(3) Should none of the inventions entered into be of sufficient value to entitle it to the prize, the jury may reject any and all of them, but at the same time shall be empowered to indemnify competing inventors in such amounts as may be deemed advisable.

The essential details as to this prize have been agreed upon between Mr. Ferdinand W. Peck, Commissioner-General of the United States to the Paris Exposition of 1900, and the Hon. Alfred Picard, Commissioner-General of the Universal International Exposition of 1900. They have also had the substantial assent and approval of the French federal authorities to the end that the competition for the prize may take place during the exposition.

In order that notice may be given to the different governments and that the fullest publicity and widest competition may be assured, it is necessary that you take an early opportunity to formally acquaint the Government of France with the desire of the heirs of the late Mr. Pollok and urge its cordial cooperation furthering their humane purpose.

The instructions to competitors will be issued in due season by the jury, with the sanction and approval of the authorities of the French exposition. These will be distributed upon application. Correspondence, however, may be addressed to the members of the jury at Paris, or to Mr. Charles J. Bell, president of the American Security and Trust Company, No. 1405 G street, Washington, D. C., U. S. A.

A similar instruction has been addressed to your colleagues accredited to all governments with which the United States has diplomatic relations. They have been directed to request that the information be given the widest possible publicity.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Vignaud to Mr. Hay.*

No. 532.]

EMBASSY OF THE UNITED STATES,  
*Paris, August 26, 1898.*

SIR: I have the honor to acknowledge the receipt of your instruction, No. 657, of August 11, concerning the Anthony Pollok Memorial Prize. The Department explains the character of this prize, the conditions on which it is to be awarded, and states that as the French and American commissioners-general have obtained the substantial assent and approval of the French authorities to the end that the competition for the prize may take place during the exposition, it is necessary that this embassy take an early opportunity to formally acquaint the Government of France with the desire of the heirs of the late Mr. Pollok and urge the cordial cooperation in furthering their humane purpose.

Some months ago when the Commissioner-General acquainted Mr. Picard with the generous intention of the heirs of Mr. Pollok, it was intimated to him that before he (M. Picard) could take any action in the matter it would be desirable to submit it to the French Government through the diplomatic channel. In view of this information and at the request of Mr. Woodward, our assistant commissioner-general, the ambassador, in a letter dated May 27, explained to Mr. Delcassé the character of the prize, warmly recommended it to his attention, and solicited his moral cooperation in the scheme.

Under date of June 15 Mr. Delcassé replied that he had submitted the proposition to the minister of marine, who would be pleased to support it.

It seems therefore that the substantial part of your instruction has been already complied with. I shall, nevertheless, avail of an early opportunity to mention the matter again to Mr. Delcassé and furnish him with additional information contained in your dispatch.

I inclose herewith a copy and translation of Mr. Delcassé's note above mentioned.

I have, etc.,

HENRY VIGNAUD.

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[Inclosure.—Translation.]

*Mr. Delcassé to Mr. Porter.*

MR. AMBASSADOR: You were good enough on the 27th of May last to inform me of the generous thought of the heirs of your compatriot, Mr. Anthony Pollok, who perished in the catastrophe of the *Bourgogne*, and you asked me whether the Government of the Republic would receive with favor the creation of a prize of 100,000 francs to be awarded at the exposition of 1900, and by an international jury, to the inventor of the best life-saving system.

The minister of marine to whom I hastened to make known this interesting communication now informs me that he is quite disposed to lend his moral support to the work in question, and that he will facilitate by every means in his power the realization of the humane idea conceived by the heirs of Pollok.

Accept, etc.,

DELCASSÉ.

*Mr. Porter to Mr. Hay.*

No. 555.]

EMBASSY OF THE UNITED STATES,  
*Paris, November 3, 1899.*

Referring to my No. 537 of September 14, informing the Department that I had again communicated with the foreign office with reference to the Anthony Pollok prize, and transmitted copies of the printed circular received with your No. 658, I now send a copy and translation of a note from Mr. Delcassé in reply to my communication.

The minister states that the circular will be given to the press, and that the French commissioner-general will have an understanding with Mr. Peck for the organization of the competition.

I am, etc.,

HORACE PORTER.

[Inclosure—Translation.]

*Mr. Delcassé to Mr. Porter.*PARIS, *October 12, 1899.*

MR. AMBASSADOR: Your excellency has been good enough to inform me, by two letters of the date of May 27 and September 7 last, of the determination taken by the heirs of Mr. Anthony Pollok for the founding of a prize of 100,000 francs destined to reward the best life-saving apparatus in case of an accident at sea.

Your excellency has sent to me at the same time three copies of notice given out by the Government of the United States on the same subject, asking me to assure it the greatest possible publicity, and to let you know what measures the Government of the Republic means to take for the organization of the competition where the award of the "Anthony Pollok" prize will be decided.

The minister of commerce, whom I desired to consult, has just informed me, and I have the honor to advise your excellency of it, that his department has caused to be given to the press the public communications which are necessary.

On the other hand, Mr. Picard, in accord with the commissioner-general of the United States, has made a project of ruling, relative to the organization of the competition, for the judgment of the apparatus exhibited and for the award of the prize. This project of ruling will be rendered definite upon the return of the commissioner of the United States, who is now traveling, and will be communicated to the interested exhibitors.

Accept, etc.,

DELCASSÉ.

**BURIAL PLACE OF PAUL JONES.***Mr. Porter to Mr. Hay.*

No. 558.]

EMBASSY OF THE UNITED STATES,  
*Paris, November 9, 1899.*

SIR: Referring to Mr. Vignaud's letter of June 28, in reply to your note of June 14, concerning the remains of Paul Jones, I am now in position to inform you that the place where he was buried has been found and that I have also procured a copy of the official report of the burial, which took place under orders from the French National Assembly. The original report was destroyed at the burning of the city hall of Paris in 1871, but, fortunately, a well-known archæologist and writer who died some time ago, Charles Read, made a copy of the document, which has just been found among his papers.

The burial place of Paul Jones was at the time a Protestant cemetery, upon which buildings are now erected, but a French archæologist, M. de Recaudy, who, at the request of this embassy, took the matter in hand and made this interesting discovery, believes that he could locate within 8 or 10 yards the spot where the body was interred, and he is confident that a careful excavation of the place would result in the discovery of the remains of the hero. I inclose herewith a copy of a report which M. de Recaudy has addressed to me on the subject, which is of great interest. M. de Recaudy suggests to me that a committee be formed of persons interested in the matter, who would provide for the funds to purchase the property and make the proper excavations with the view of having the remains transferred to the United States, should they be found. The coffin, in all probability, was of wood, and unless there was a metallic plate bearing the name of the deceased, or a sword or some article not perishable, it might be difficult to identify whatever may be left of the body. I submit these suggestions to your appreciation, and can only say that I will cheerfully cooperate in any action having in view the removal to the United States of the remains of Paul Jones. I also inclose a photograph showing the main buildings now standing on the site of the Protestant cemetery mentioned in the "report." The structure to the right bearing the sign "Encadrements" is supposed to stand on the spot where Paul Jones was buried.

I have, etc.,

HORACE PORTER.

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[Inclosure.]

*M. de Recaudy to Mr. Porter.*

PARIS, October 29, 1899.

REPORT IN REFERENCE TO THE SITE OF THE BURIAL OF THE REMAINS OF COMMODORE JOHN PAUL JONES, AND AS TO THE MEANS OF FINDING THEM.

Paul Jones died in Paris on the 18th of July, 1792, and was buried on July 20 of the same year, as is established by the burial register, of which the following is a transcription:

"On this the 20th day of July, 1792, year IV of Liberty (year I of Egalite), at 8 o'clock in the evening and in conformity with the decree of the National Assembly of the day previous, in presence of the deputation of the said Assembly, composed of Messieurs Brun, president of the deputation of the aforesaid Assembly, Bravet, Cambon, Rouyer, Brival, Deydier, Gay-Vernon, bishop of the Department of the Haute-Vienne, Chabot, episcopal vicar of the Department of the Loir-et-Cher, Carlier, Petit, Le Josnes Robouaume; and a deputation of the Consistory of the Protestants of Paris, composed of Messrs. Maron, Pasteur, Perreaux, Bénard, Mouquin, and Empaytaz, anciens, John Paul Jones, native of England and a citizen of the United States, first sea officer (premier officier de mer) in the service of the said United States, aged 45 years, and died on the 18th of this month at his residence situated at No. 42 rue des Tournon, in consequence of dropsy of the chest (hydropisie de poitrine), in the sentiments of the Protestant religion. The said burial took place in the presence of us, Pierre Francois, Simonneau, commissioner of the King in these precincts and commissioner of police of the section of Ponceau; in the presence of Messieurs Samuel Blackden, colonel of dragoons in the service of the State of North Carolina; of S. James, Col. Montflorenc, formerly major in the service of the United States; of Marie-Jean Baptiste Benoist Beaupoil, former French officer living in Paris at No. 7 Passage des Petits-Peres, and Louis Nicholas Villeminot, officer commanding the grenadiers of the gendarmerie, which escorted the deputation of the Assembly, and of others who signed with us; Brun, Gay-Vernon, bishop and deputy; Deydier, deputy of the Ain; Rouyer, Francois Cholot, Bénard, J. C. Mountflorenc, Petit, Cambon fils aîné, Bravet, Beaupoil, P. H. Carlier, Durvosque, Lafontaine, Simonneau,



Jacques Brivial, Villemot, Robouame deputy, Marron, Perreaux, Mouquin, Empaytaz, R. Ghiselin de Maryland; S. Blackden; Griffith, of Philadelphia."

This document was copied in 1859 by M. Charles Read from a register contained in the archives of the city of Paris, in the building in the Avenue Victoria, which served as a supplementary archives for the Hôtel de Ville. This register bore the serial number 89 and formed part of a series relating to the official status (*état civil*) of Protestants, and was, for the subject of deaths, composed of five registers. This register, numbered 89, commenced in 1779, related to a cemetery, owned by the Protestants, situated near the Porte St. Martin, between the tree-planted avenue (Boulevard Bonne Nouvelle) and the rue Basse de la Voirie (a street no longer existing). It occupied an area of 256 toises (32 extending along the tree-planted avenue and 8 extending along the road of the Porte St. Martin to the right of the present rue du Faubourg St. Martin). But this cemetery was closed in 1762 by order of the lieutenant of police, under the pretext of completing the extension of the boulevard. It had been opened in 1724 at the instance of Mr. Hop, the Dutch ambassador, who complained to the King of the difficulties connected with the burial of foreign Protestants. When this cemetery was closed another one was opened behind the St. Louis Hospital on a site which is occupied now exactly by the buildings numbered 41, 43, 45, and 47 in the rue Grange-aux-Belles, and number 1 in the rue des Ecluses Saint Martin. The premises were purchased from the religious order of the Lazarists, which owned a vast property in these parts. It is composed of a courtyard and a garden. The entrance was not in the rue de l'Hôpital Saint Louis, now rue Grange-aux-Belles, as might be supposed from the documents, where it is sometimes indicated as behind the St. Louis Hospital, sometimes on the site of the St. Louis Hospital, sometimes in the rue de l'Hôpital Saint Louis, and sometimes, by error, behind the Saint Louis Church, but in the rue des Morts, formerly rue Saint Maur, and to-day rue des Ecluses Saint Martin. No Paris historian explains this naming of the rue des Morts, which was apparently due to a pun which is not unusual in cases like that of the street in question, which was known later by its original name of the rue Saint Maur. The creation of this cemetery was evidently the cause.

One enters at first in a courtyard which contained the house of the concierge and various unimportant buildings. Then one descends several steps. One reaches the garden, which extends mostly on a lower level than that of the rue Grange-aux-Belles. Until the year 1777 burials were made exclusively in the garden. At that date it was decided that the Protestants of the Kingdom (French), until then deprived of a decent place for burial (they were buried in fields or gardens), should be henceforth buried in the courtyard, and to avoid any possible confusion between French and foreign Protestants reference should be made for the designation of allotments to the decision of the embassy of Holland. But it had also been decided that a separate register should be kept for each category of dead. It is known that this order was disregarded. It is likely that the other instructions also remained a dead letter. At the time of the Commodore's death the garden must have been long since filled up so as no longer to be a "decent place of burial," as had been desired. Quite recently the owner of the washing establishment (laundry) situated at No. 45 rue Grange-aux-Belles (garden site), wishing to increase the depth of the pit where his boiler was placed, excavated at a depth of 2 meters 50 centimeters a viscous black substance containing fragments of human bones. This unnatural earth constitutes what is technically called "corpse loam" ("*le gras de cadavre*"). This is the special condition of over-saturated cemeteries. On the courtyard side, on the contrary, the earth that was excavated to make a trench for some water pipes was found to be less impure, and bones, shin bones, and shoulder blades were discovered in a fairly good state of preservation.

A tenant who wished to bury a dog found almost at the soil level two skulls. Hence it appears that long before 1792 they had been compelled to bury both categories of the dead in the courtyard, and Paul Jones being one of the latest interments it is probable that his remains are not far from the entrance door, the place most likely to have been used for the latest burials. But this is merely a hypothesis.

Was the Commodore ever disinterred? Two authors state that his remains are in the Pere Lachaise. But in this cemetery the only Joneses are Jones (Edward Thomas), died in 1833; Jones (John Quereau), died in 1822; Jones (Charles), died in 1829; Jones (James), died in 1827. A fifth Jones, who died in 1820, is described as George Jones on the tombstone, and as Jones on the register of the administration. Moreover, Charles Jones had taken, in 1820, a perpetual concession for a widow lady named Mathews, who died in 1826; and in a tomb of the Colton-Graves family is found Olivia Augusta Jones. This is the only Jones in the tombs containing several bodies. Consequently the Commodore can not be in Pere Lachaise Cemetery.

Moreover, the cemetery of the Rue-aux-Belles was officially closed on January 1, 1793, less than six months after the death of Paul Jones; and on the 3d day of Thermidor, Year IV, it was sold as national property and was deeded to Monsieur Phalipeaux. Some time afterwards a night-soil remover named Sage established himself on the premises, and in order to facilitate the entrance of his carts he raised the level of the garden to the level of the courtyard. Later the estate was divided into two lots as they exist to-day. The first lot (41 and 43 Rue Grange-aux-Belles) covers the area of the garden. It measures 38 meters by 40. The second lot (45 and 47 of the same street, and 1 Rue des Ecluses St. Martin) occupies the area of the former courtyard, and measures 26 meters by 40. The total area of the premises (2,560 meters square) still belongs to the Sage family, but the buildings numbered 41 and 43 are the property of M. Bassigny. Number 41 is composed of two stories; number 43 is composed of a large paved courtyard in which is a shed and a storage for grains and hay, under which is an excavation large enough to hold the boiler that formerly stood there, and of a small garden and dwelling of light construction. Number 45 contains a laundry, the floor of which is cement, and comprises drains for conducting water into the street. This laundry is built without foundations. As to excavations, there is the place for the boiler already mentioned, and a cellar that has the appearance of being very old. At number 47 is found on the side of the Rue Grange-aux-Belles a house of three stories, and adjoining the Rue des Ecluses St. Martin is a cheap construction with no upper stories and in a dilapidated condition. The remainder of the area is represented by a courtyard and several unimportant buildings.

It results from this sale and the almost immediate occupancy of the site, that the naval hero of the war of American independence has never been exhumed. Since the Protestant Cemetery was closed in 1804 there does not exist in Paris any other cemetery whither his remains could have been decently transferred. It has been seen that his remains are not in Pere Lachaise. Neither are they in other cemeteries since created, consequently they must be in the site adjoining the Rue-aux-Belles. Is there a reasonable chance of recovering his bones? If he was buried in a wooden coffin there may be only found some unrecognizable fragments; if the body was encased in a leaden coffin there is no doubt but what his remains can be identified. But was this done? Mr. Gouverneur Morris, the United States minister in Paris at the time of the decease of Paul Jones, mentions in his diary that the funeral was a very modest one. May not the word "modest" refer to the material supplied for the burial, for it is known by the official register that a brilliant assemblage attended the funeral.

In any event, even if his bones can not be identified, it is nevertheless absolutely certain that he is there, and that the acquisition of the site of the former cemetery could be made under advantageous circumstances. A square might be made bearing the name Commodore Paul Jones, upon which a monument might be appropriately erected to his memory and without prejudice to any excavations that might be hereafter deemed advisable.

All the above information is based upon documents consulted in various archives, or taken from plans. No statement has been made that is not supported by documentary proof that in each case can be produced if needed.

## EXTENSION OF FRENCH SETTLEMENT AT SHANGHAI.<sup>1</sup>

*Mr. Cambon to Mr. Hay.*

[Translation.]

FRENCH EMBASSY,  
Washington, March 29, 1899.

MR. SECRETARY OF STATE: As you are aware, the French concession and the international concession, better known under the name of "the foreign settlement," in which the American concession had been merged for some years past, were organized at Shanghai more than forty years ago, in execution of the treaties concluded at the

<sup>1</sup>See also "Extension of Foreign Settlement at Shanghai (China), p. 143.

time when certain Chinese ports were opened to international commerce. These concessions adjoin each other, and extend in an easterly direction along the Wampoa. Their enlargement, which is rendered necessary by the increase of the European population, which is now crowded within the boundaries originally established, has been since 1896 the object of an agreement between the foreign consuls at Shanghai, and in that year a systematic plan for the enlargement of the French concession and the foreign settlement was decided upon, with a due regard to their common interests and to their particular needs. This plan fixed especially the directions in which the two concessions should be extended.

The representatives of the powers at Peking, after approving the plan, presented to the Chinese Government a joint request for an enlargement of the two concessions at Shanghai, on the basis thus settled by the consuls. The tsungli yamen replied that the request could not be entertained, but the diplomatic corps persisted, and reserved the right to again insist upon its request whenever circumstances should appear favorable.

Such has been the state of this matter up to the present time.

My Government has just been informed that steps authorized by the diplomatic agents of Great Britain and the United States at Peking are now being taken by the English and American consuls at Shanghai, near the Chinese authorities of the port, with a view to obtaining an enlargement of the foreign settlement. These agents are said to have asked especially that two quarters on the west and southwest of the French concession on the left bank of the Wampoa, which were designated in the common plan of 1896 as to be eventually joined to our concession, be added to the international concession.

If this portion of the requests of the English and American consuls should be favorably entertained by the Chinese authorities our concession would be inclosed on three sides by the foreign settlement, and would thus be rendered incapable of subsequent enlargement, as its fourth boundary is the Wampoa. The injury which would result to our interests from this breach of the agreement made in 1896 would render it necessary for my Government, against its will and to its deep regret, to oppose China's giving satisfaction on these points to the agents of the United States and Great Britain. If those agents think that by opening separate negotiations with the Chinese authorities they have a prospect of obtaining an enlargement of the foreign settlement my Government will be pleased with their success, but it desires, and the Federal Government will doubtless admit that it is expedient, that their requests should not include lands or quarters previously designated as to be claimed for the enlargement of the French concession.

I would, therefore, be very much obliged to you, Mr. Secretary of State, if you would have the kindness to instruct the American agents at Peking and Shanghai not to deviate from the agreement made in 1896, *so far as relates to the directions* in which the enlargement of the foreign settlement is to be made, and which are designated in the plan adopted in common by the consular corps at Shanghai. It is needless to say that my Government is ready to instruct the minister of the Republic at Peking to come to an agreement with his colleagues to act again, by means of an identical note, near the tsungli yamen, for the purpose of procuring its consent to the requests for an enlargement of

the international and French concessions, which were presented to it in 1896.

Without dwelling upon the friendly spirit in which the present step is taken, and with the conviction that you will admit that the request of my Government is based upon equitable considerations, which appear to have been lost sight of at Shanghai,

I beg you to accept, etc.,

JULES CAMBON.

*Mr. Hay to Mr. Cambon.*

No. 200.]

DEPARTMENT OF STATE,  
*Washington, April 20, 1899.*

EXCELLENCY: I have given, with all the urgency permitted by the pressing cares of my office, careful consideration to your note of March 29 in relation to the extension of the French concession and the foreign settlement at Shanghai.

From the correspondence on file in this Department it is found that the understanding reached in 1896, to which you refer, took the form of a request addressed to the yamen by Mr. Denby, as dean of the diplomatic corps for a simultaneous extension of the Anglo-American and French settlement at Shanghai. To this request the yamen replied unfavorably on the ground that the proposed extensions, as shown by the maps transmitted to the yamen, would cover a very large area of territory. Mr. Denby's reply, as dean, acknowledged the Chinese answer and gave notice that the subject would be again presented by the foreign representatives, either collectively or individually. Thereafter the diplomatic corps appear to have left the whole matter to the consuls at Shanghai for, under date of December 8, 1897, Mr. Denby reported having written a letter to the senior (German) consul at Shanghai informing him that before any diplomatic action could be taken "a very serious effort should be made by the foreign consuls to procure the consent of the local authorities."

From the foregoing it appears that the several foreign interests at Shanghai in the matter of territorial settlements were deemed to be so far conjoint that extension in the several and general interests of the concessionaries was to be treated as a measure of common interest by concerted action, if possible.

Subsequently, in December last, Mr. Conger reported that a separate application had been made for the extension of the French settlement against which the other powers protested and asked for instructions, he having already remonstrated against any extension "which will bring American-owned property under the jurisdiction of any single foreign power." The Department approved his remonstrance to this extent.

The justice of this ground of remonstrance appears to have been admitted by the French consul who offered, in writing, to provide that the rights to trial in the American court and of registry of land in the American consulate would be respected should the proposed French extension embrace American property or interests; but it does not appear that he was authorized by his Government to make this offer, and it has not been renewed so far as I am advised.

Under date of January 8 the United States consul-general at Shanghai reported that the Chinese Government offered to grant a settlement open to all nations in common, and that the consuls of Great Britain and Germany were acting in favor of such general extension "for the residence of all foreigners."

So far as appears this Government has not specifically approved the movement made at Shanghai early last winter for an extension of the specific Anglo-American concession. No maps or details showing the proposed extension have been sent hither. So far as this Government is able to understand the question from the limited information it now possesses it would be disposed to favor a general extension for the benefit of all the treaty powers, in which France and the United States would share on equal footing with the rest. It would seem from your note that the pending question of such a general extension had not been brought to your attention. Inasmuch as it implies an abandonment of the movements set on foot last winter for a specific Anglo-American extension, and substitutes a plan in the general interest of all foreigners for an extension of the "foreign settlement" as distinguishable from the French concession, the justice and equity of the latter proposal may well be open to consideration. As it now stands, I infer from the statements of your note that the only application for an extension now pending in behalf of any particular nation is that presented by France. Although the area over which any extension of foreign settlements may be effected is necessarily limited, and notwithstanding that the treaty powers who have heretofore obtained special settlements have consolidated them in one general foreign settlement under a general administration of all the foreign consuls, each of those powers would, as an abstract proposition, be entitled to an equivalent separate extension should any be demanded and granted in favor of France or any other single power. If this were done the geographical conditions of the locality would very soon hem in most of the concessions so that a limit would perforce be set to the extension of one or more national concessions by the accretion of contiguous territory. The alternative solution of the question would seem to involve some such joint agreement as that latterly proposed in the common interest of the treaty powers.

The United States Government, however, as I have already said, has not supported any application for a specific American extension and I may add that it has no desire to do so if the effect would be to prevent an equal privilege of extension in behalf of France or any other treaty power.

The matter is, however, at present in such shape that I am unable to make a more definite response to your note without further information on the subject. I have accordingly called upon Minister Conger to report the situation fully to me, accompanied by maps and plans distinctly showing exactly what privileges are sought in behalf of France or in behalf of the proposed general foreign settlement, with a statement of what American interests if any are comprised within the territory which is proposed to be added to the French concession or to be the foreign settlement. I have also instructed Mr. Conger that, while reserving all rights of equality of treatment for the United States in whatever solution may be eventually arranged, any steps that he may adopt toward reaching such a solution shall be taken in a spirit of mutual consideration, giving to all ascertained foreign interests in

the premises the same respect as he shall ask for the interests of the United States.

Upon receiving Mr. Conger's report I hope to be in a position to give him definite instructions, the justice and considerateness of which will, I doubt not, fully commend themselves to your Government.

Be pleased to accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Cambon.*

No. 226.]

DEPARTMENT OF STATE,  
*Washington, June 12, 1899.*

EXCELLENCY: Referring to your note of March 29 last, and mine in reply of April 20, in relation to the question of the extension of the French concession and the general foreign settlement at Shanghai, I have the honor to inform you that the Government of the United States withdraws its opposition to the proposed extension of the French concession at Shanghai, upon the condition, however, that the French Government will guarantee to the United States full extraterritorial rights over any American-owned property which may be, at the date of this assent, situated in the territory that is to be added to the French concession, as well as over the American owners of such property.

Accept, etc.;

JOHN HAY.

## GERMANY.

### AMERICAN LIFE INSURANCE COMPANIES IN PRUSSIA.

*Mr. Jackson to Mr. Hay.*

No. 624.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 25, 1898.*

SIR: Referring to previous correspondence, I have the honor to inform you that I have to-day received a letter from Professor Dr. Klein, of Göttingen, in which he says that the expert report of the matter of the readmission to do business in Prussia of the New York Life Insurance Company is expected to be put into the hands of the Prussian minister of the interior on the 28th instant, and that I have communicated this information to Mr. G. W. Perkins, the second vice-president of the company in question.

I have also to inform you that the representatives of the Mutual Life Insurance Company have been put in communication with Dr. Klein, for the purpose of presenting their case to him, in response to a request made by me at the foreign office.

All those who have seen Dr. Klein are convinced of his fairness, and the New York people are very sanguine as to the nature of his report in regard to their company. About its effect upon the governmental authorities, however, they are more in doubt, and I understand that a suggestion has been made to them informally that the matter not be pressed, as it was proposed to introduce the long-expected imperial insurance bill at the next session of the Reichstag. The companies are properly not willing to let the matter rest, the provisions of the bill not having been as yet made public, and as there is some reason for supposing that certain members of the Prussian Government entertain hope that the whole question of insurance (life, fire, etc.) will be taken over by the Imperial Government and that a governmental monopoly will be made. Consequently so long as the terms of the proposed bill, to which frequent reference is made by the press, are not published one can not help feeling that there may be surprises in it.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Jackson to Mr. Hay.*

No. 633.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 28, 1898.*

SIR: Referring to my dispatch No. 624, of the 25th instant, I have the honor to inform you that in Saturday evening's Imperial Gazette there was published the text of the projected imperial law in regard to private insurance undertakings. Representatives of the Mutual

and New York companies have called on me to-day in regard to the bill, and I believe both companies are having translations prepared for communication to their home offices. The bill I have not read myself, as I have not a sufficient technical knowledge of the subject to make it worth while my taking the time to do so. The general impression in regard to it seems to be favorable, and it is noted with particular satisfaction that the subject of concessions is put in the hands of the chancellor of the Empire and not left with the individual governments.

To my regret, I am able to send the Department only one copy of this bill, as on sending to the office of the paper in which it was published in order to obtain additional copies the messenger was informed that the issue was already sold out.

I have, etc.,

JOHN B. JACKSON.

(The translation of the bill referred to above is omitted because of its length.)

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*Mr. Jackson to Mr. Hay.*

No. 648.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 8, 1898.*

SIR: Referring to my dispatch No. 624, of the 25th ultimo, I have the honor to inform you that on the 29th I presented the representatives of the New York Life Insurance Company to the Prussian minister of the interior, and that since that time these gentlemen have been in almost daily communication with that official or those under him. From these gentlemen I understand that every opportunity has been given them to present their case in a thorough manner, and that an agreement has been made according to which two of the subordinates of the Prussian ministry in question are to go to New York early in the new year in order to make an examination on the spot of the business methods of the company. This company has admitted that it had been impossible for it to comply with the Prussian regulations heretofore, but that changes and improvements had been made in its system, and that now it could comply in every point.

I have also to inform you that the embassy has been able to obtain the desired facilities for the representatives of the Mutual Life Insurance Company of New York, and that they have been informed that Professor Klein would receive them at Göttingen to-day.

Referring to my dispatch No. 633, of the 28th ultimo, I have the honor to inform you that last night's North German Gazette calls attention to the fact that no mention was made of the imperial insurance bill in the recent speech from the throne, and adds that the bill was published in the Imperial Gazette for the purpose of subjecting it to public criticism, but that it is not probable that it will be submitted to the Reichstag at its present session, as the Imperial Government will await the opinions of the insurance advisory council and other qualified bodies before deciding definitely upon its terms.

I have, etc.,

JOHN B. JACKSON.

P. S.—Since the foregoing dispatch was written a letter has been received by Mr. Jackson from Mr. George W. Perkins, second vice-president of the New York Life Insurance Company (see instruction



No. 589, of September 27, 1898), in which he says, "Allow me to once more renew my thanks for the many, many ways in which you have been of assistance to Mr. Weeks and myself in our 'trials' and tribulations," and incloses the statement which the Prussian minister had authorized him (on the eve of his return to New York) to give to the newspapers, of which the following is a copy:

The North American Life Insurance Company, New York, has, since some time, through two representatives, entered into verbal negotiation with the minister of the interior. We have it on good authority that the officers of the company have been received in audience by the minister of interior, on which occasion opportunity was offered to them to tender proof that the company represented by them is now in a position to comply in every respect with the requirements of the Prussian supervising authorities. We further understand that several conferences have taken place between the officials in the ministry of the interior. In consequence of this, a rumor has been spread that the Company New York would, solely on the basis of these negotiations, be readmitted to do business in Prussia. This rumor, however, is unfounded, the fact being that the Company New York has requested the minister of the interior to delegate two officials of the ministry to New York, as early as possible at the beginning of next year, in order to examine the company at its chief office. It is therefore evident that the company can not petition with the minister of the interior for an immediate readmission for resumption of business before this examination shall have taken place.

J. B. J.

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*Mr. Jackson to Mr. Hay.*

No. 658.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 12, 1898.*

SIR: Referring to my dispatches Nos. 624 of the 25th ultimo and 648 of the 8th instant, I have the honor to inform you that the representatives of the Mutual Life Insurance Company of New York called at the embassy this morning to inform me that they had been received several times by Professor Klein and his associates at Göttingen, and that they had been able, as they thought, to explain their business system to the satisfaction of these gentlemen. They, too, obtained a favorable impression of the thoroughness of the examination which has been made by these experts, and of the fairness which they have shown and the desire to fully understand all the questions at issue. The political side of the case, if there be one, can not of course appear until the report has gotten into the hands of the Prussian ministry of the interior again. I have informed the Mutual people, in a general way, of what was done by the representatives of the New York Life Insurance Company, and have assured them that I would gladly obtain for them the same facilities for presenting their case to the Prussian officials should they desire to have me do so.

I have, etc.,

JOHN B. JACKSON.

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*Mr. White to Mr. Hay.*

No. 758.]

EMBASSY OF THE UNITED STATES,  
*Berlin, February 20, 1899.*

SIR: At the close of the recent visit made to me by Baron von Richthofen, referred to in my dispatch No. 757 of this date, he referred to the fact that the minister of the interior, Herr von der Recke, had

decided to send commissioners to New York to examine the system of the insurance companies which have so long been asking for such a commission (see dispatch No. 648 of December 8, 1898), but that the Government had decided not to accept the proposal of the companies to pay the expenses therefor, preferring itself to pay the expenses of any commission which it might send.

I am, etc.,

ANDREW D. WHITE.

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*The German Ambassador to the Secretary of State.*

GERMAN EMBASSY, February 27, 1899.

MEMORANDUM.

The German Government is sending two officials, counselors of state, Freiherr Marschall von Bieberstein and Mr. Hoppe, representing the ministry of the interior, to the United States to confer with the heads of the three life insurance companies, the Mutual, Equitable, and the New York Life, to agree on a method which may enable them to resume their business in Prussia at an early date. The Prussian Government will pay the necessary expenses.

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*Mr. Hay to Mr. von Holleben.*

No. 208.]

DEPARTMENT OF STATE,  
Washington, February 27, 1899.

EXCELLENCY: I beg to thank you for your kindness and courtesy in communicating to me this morning, through Baron Sternburg, information as to the intention of the Prussian Government in sending agents here to settle questions of the management of insurance companies in Prussia.

\* \* \* \* \*

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. White.*

No. 781.]

DEPARTMENT OF STATE, .  
Washington, March 2, 1899.

SIR: I inclose herewith, for your information and the embassy files, copy of a memorandum<sup>1</sup> furnished to this Department by the German embassy stating the intention of the German Government to send two officials to the United States to confer with the presidents of the Equitable, the New York, and the Mutual Life Insurance companies with a view to reaching an arrangement by which these companies may be enabled to resume business in Prussia.

I have communicated this information to the presidents of the three companies named.

I am, etc.,

JOHN HAY.

*Mr. White to Mr. Hay.*

No. 770.]

EMBASSY OF THE UNITED STATES,

*Berlin, March 2, 1899.*

SIR: The time has perhaps arrived for a summary statement to the Department of the general progress made within the last half year in relation to our commercial and business interests in Germany.

As regards the American insurance interests, which have been so long under discussion, the prospect seems distinctly encouraging. The German Government, having delayed attention to the question so long that it seemed practically closed, yielded some time since to the request of the companies, made through the embassy, to allow a new presentation of the American case before the German special commission of experts, and has recently made the further concession, so long and so earnestly sought by the American companies, of sending a special commission to the United States for the purpose of examining into the system and methods of the companies at their headquarters in America.

\*            \*            \*            \*            \*            \*

I am, etc.,

ANDREW D. WHITE.

*Mr. White to Mr. Hay.*

No. 832.]

EMBASSY OF THE UNITED STATES,

*Berlin, April 22, 1899.*

SIR: The telegrams in the press have doubtless informed you that the Imperial Government have carried out the intention, which I announced to you some time since, of sending experts to the United States for the purpose of studying the methods of sundry American insurance companies which desire to do business in Germany.

A few days since these gentlemen, Messrs. von Knebel-Doeberitz and Marschall von Bieberstein, were presented to me by Mr. von der Recke von der Horst, the Prussian minister of the interior.

I found them to all appearances competent and conciliatory, and trust that their stay in New York may result in removing the distrust which prevails in some controlling circles here as regards the manner in which our leading insurance companies conduct their business.

I am, etc.,

ANDREW D. WHITE.

*Mr. Jackson to Mr. Hay.*

No. 989.]

EMBASSY OF THE UNITED STATES,

*Berlin, August 9, 1899.*

SIR: I have the honor to acknowledge the receipt by the embassy, this morning, of your cipher telegram, as follows:

The Prussian commissioners have about concluded their examination of the insurance companies in New York, and it is understood their report will be very friendly to our American companies. It is to be hoped that the report will be favorably received at home, and that it may be the means of reinstating these companies on a solid foundation. Whatever you can properly do within your sphere to bring about

a good relation of the Government with the American insurance companies will be rendering a valuable service to the country. It might be made known, if it has not already been done, that we appreciate the sending of the commission to examine American insurance companies as an act of friendly and courteous consideration;

and to inclose herewith a copy of a note which was at once addressed to the German foreign office, informing it that the subject of the readmission of the American life insurance companies to do business in Prussia is one to which the United States Government attaches great importance.

I have, etc.,

JOHN B. JACKSON.

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[Inclosure in No. 989.]

*Mr. Jackson to Baron von Richthofen.*

EMBASSY OF THE UNITED STATES,  
*Berlin, August 9, 1899.*

The undersigned, referring to Count von Bülow's note of April 14 last, and acting under instructions from his Government, has the honor to inform Baron von Richthofen, acting secretary of state for foreign affairs, that the sending of Prussian commissioners to examine American insurance companies is appreciated as an act of friendly and courteous consideration. It is understood that these commissioners have about concluded their examination of the companies in question, and that their report will be friendly to them. It is consequently most sincerely hoped that the report will be favorably received by the appropriate authorities in Berlin, and that it may be the means of reinstating the American companies upon a solid foundation.

While adding that the matter is one to which the United States Government attaches great importance, the undersigned avails himself, etc.

JOHN B. JACKSON.

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*Mr. Jackson to Mr. Hay.*

No. 993.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 15, 1899.*

SIR: Referring to the embassy's dispatch, No. 989, of the 9th instant, I have the honor to inform you that a reply to the note which was addressed to the German foreign office on the same date has to-day been received. In this reply Baron von Richthofen assures me that as soon as the report of the Prussian commissioners is made it will be subjected to a thorough and careful examination in a most conciliatory and friendly spirit.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Adee to Mr. White.*

No. 917.]

DEPARTMENT OF STATE,  
*Washington, August 19, 1899.*

SIR: Referring to previous correspondence respecting the attitude of the Prussian Government toward American insurance companies, I have the honor to transmit herewith, for your information, copy of a letter of the 9th instant from the superintendent of the insurance department of the State of New York, in which he advises the Department that the insurance delegates sent by Prussia to the United States, and now about to return to Germany, have had many interviews with

him and have made an inspection of the workings of his department. He states that he expressed to the delegates the hope that the American companies will be able to meet the requirements exacted by Prussia, in order that his department may readmit Prussian companies complying with the laws of the State of New York, and asks that you acquaint the proper Prussian authorities with the position of his department in this matter.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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[Inclosure in No. 917.]

*Superintendent of Insurance (State of New York) to Mr. Hay.*

ALBANY, August 9, 1899.

SIR: Referring to the efforts of the American insurance companies ruled out of Prussia to obtain readmission, the subject of which has been a matter of correspondence between our respective departments, I have to advise that the Prussian delegates, who have been here to investigate and who are now about to return home, have had many interviews with me and have visited this department for an inspection of its workings, etc.

I have heretofore said publicly; and I have repeated the same to the honorable delegates from Prussia, that this department is most anxious to reestablish the good feeling which existed several years ago between the companies of the two countries and the supervising authorities, and I trust that our insurance companies will be able to meet the requirements exacted of them, thereby enabling me to admit or readmit all Prussian insurance companies complying with the laws of this State.

Trusting that the position of this department may be communicated through your department to the Prussian authorities, I have, etc.,

LOUIS F. PAYN,  
*Superintendent of Insurance.*

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*Mr. White to Mr. Hay.*

No. 1013.]

EMBASSY OF THE UNITED STATES,  
*Berlin, September 1, 1899.*

SIR: I have the honor to acknowledge the receipt, today, of the Department's instruction No. 917, of the 19th ultimo, and to inform you that a copy of Superintendent Payn's letter in regard to the readmission of the American life insurance companies to do business in Prussia and of the Prussian companies to do business in the State of New York, has been communicated to Minister Count von Bülow for such use as he may see fit to make of the same. At the same time the embassy has expressed its thanks for the assurance given in Baron Richthofen's note of August 14 (dispatch No. 993, August 15, 1899), and has again called attention to the fact that the United States Government attaches great importance to the satisfactory settlement of the question concerned, at an early date.

Referring to previous correspondence, I have the honor to inform you that the Prussian commissioners have now returned to Berlin, but as it is understood that they are to take a vacation before resuming work in the ministry of the interior, and as the minister himself, Baron von der Recke, is actually on leave, it is not likely that the report will be considered for several weeks. At the same time the fact is worthy of attention that the newspapers are beginning to refer

to the probability that the Imperial insurance bill (dispatch No. 633, November 28, 1898) will be introduced in the Reichstag soon after it reassembles in November. The text of this bill has been freely discussed by the various chambers of commerce and other similar bodies, and by the press throughout Germany, but it is thought probable that the text of the bill, when introduced, will not differ materially from that of the draft published about nine months ago.

I have, etc.,

ANDREW D. WHITE.

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*Mr. White to Mr. Hay.*

No. 1058.]

EMBASSY OF THE UNITED STATES,  
*Berlin, October 31, 1899.*

SIR: On Saturday, October 28, I cabled you as follows: "New York Life Insurance Company to-day readmitted to the Empire. Everything very satisfactory; dispatch follows," and on Sunday, the 29th, I received from you the following: "The New York Life Insurance Company has cabled this Department to-day that its application for admission has been favorably acted upon. The company expresses its obligation to you for favorable assistance received in connection with its application, and we desire that you should express to the Prussian minister of the interior our satisfaction with the action taken and the favorable adjustment of the insurance question by the insurance authorities."

I shall, as soon as possible, call on the imperial secretary of state for foreign affairs and express the feelings of our Government regarding the above matters, with especial mention of the minister of the interior, and shall take the first occasion, as instructed by you, to renew to the latter the expression of the same feeling.

I am; etc.,

ANDREW D. WHITE.

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*Mr. White to Mr. Hay.*

No. 1060.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 3, 1899.*

SIR: I have the honor to report that on Tuesday last, that being the weekly reception day at the foreign office, I called on Count von Bülow and found that he was absent and that Mr. von Derenthall was in charge.

Pursuant to your instructions I expressed to him the especial satisfaction of our Government at the readmission to the Empire of the New York Life Insurance Company, and gave him to understand that we earnestly hoped that the negotiations regarding other companies may be equally successful.

I also, pursuant to the same instructions, requested him to make this feeling on the part of our Government known to the Prussian minister of the interior, Mr. von Rheinbaben.

I also took the occasion to express the satisfaction of the Administration and of the American people generally at the reception which

was given by the Emperor and the imperial chancellor to ex-President Harrison and Mrs. Harrison during their stay here.

I am, etc.,

ANDREW D. WHITE.

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*Mr. Jackson to Mr. Hay.*

No. 1067.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 8, 1899.*

SIR: Referring to Mr. White's dispatches, Nos. 1058 and 1060, of the 31st ultimo and 3d instant, respectively, I have the honor to inform you that I made a formal call upon his excellency Baron von Rheinbaben, the new Prussian minister of the interior, this afternoon, in order to make his acquaintance. The conversation turned almost at once to the insurance question, and I communicated to the minister the contents of your telegram of October 28, by which he seemed much pleased. He told me that the question of the Mutual Life Insurance Company was now under consideration, and the local representative of that company (as I already knew) had been notified of the fact. He also inquired about the Equitable Company in general, and in particular as to the relative standing of the three great life insurance companies of New York. I told him that it would be hard to say which company was the best; that the Equitable, Mutual, and New York were generally considered as of about the same standing; that all were looked on as financially safe; that the United States Government had as much interest for one as another; and that it hoped that the readmission of the New York would soon be followed by that of the Mutual.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Hay to Mr. Jackson.*

No. 971.]

DEPARTMENT OF STATE,  
*Washington, November 27, 1899.*

SIR: Referring to your dispatch, No. 1067, of the 8th instant, relative to your conversation with Baron von Rheinbaben in regard to the three New York life insurance companies, I have to inform you that the Department fully approves of the discreet manner in which you communicated to the minister the contents of its telegram of the 28th ultimo.

I am, etc.,

JOHN HAY.

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*Mr. von Holleben to Mr. Hay.*

[Translation.]

GERMAN EMBASSY,  
*Washington, November 28, 1899.*

MR. SECRETARY OF STATE:

I have the honor, by direction of the Imperial Government, to inform your excellency most respectfully that the American New York Life

Insurance Company, of New York, has, by an order of the royal Prussian ministry of the interior of the 1st instant, been again permitted to do business in Prussia.

In this connection I have the honor to remark that I have this day received a telegram from the president of the New York Life Insurance Company stating that the Prussian fire insurance companies are again permitted to do business in the State of New York.

I am sure that my Government will be very much gratified by this friendly act.

Accept, etc.,

HOLLEBEN.

*Mr. Jackson to Mr. Hay.*

No. 1091.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 29, 1899.*

SIR: I have the honor to inform you of the receipt, this morning, of the following telegram:

I have pleasure in advising you that the Prussian fire insurance companies have been this day (November 28) readmitted to this State. John A. McCall, president, New York Life Insurance Company.

and to inform you that I at once called at the German foreign office and showed the same to Baron Richthofen, who is still in charge. Baron Richthofen expressed great satisfaction at the information, which had also just been communicated to him from the German embassy at Washington, and assured me that he hoped that it might soon be found possible to readmit the Mutual Life Insurance Company to Prussia.

I subsequently called on Baron Rheinbaben, the Prussian minister of the interior, who had received a telegram similar to that received by the embassy, and he asked me to express to the proper authorities his most sincere thanks for their action in this matter. He, too, spoke of the pending application of the Mutual Company, and expressed a hope that it would be possible to come to an agreement which would permit the readmission of that company.

I have, etc.,

JOHN B. JACKSON.

*Mr. Hay to Mr. von Holleben.*

No. 351.]

DEPARTMENT OF STATE,  
*Washington, November 29, 1899.*

EXCELLENCY: I have the honor as well as the pleasure to advise you that I have received information from the president of the New York Life Insurance Company that the Prussian fire insurance companies have been readmitted to transact business in the State of New York.

This information I have also communicated to the embassy of the United States at Berlin by telegraph to-day.

Accept, etc.,

JOHN HAY.



*Mr. Jackson to Mr. Hay.*

No. 1092.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 30, 1899.*

SIR: While referring to my dispatch No. 1091, mailed you yesterday afternoon, I have the honor to append hereto a copy of the text of your telegram, received late last night, and of my reply thereto, just sent you, in regard to the readmission of the Prussian fire insurance companies to the State of New York, and to be, etc.,

JOHN B. JACKSON.

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[Inclosure 1 in No. 1092.—Telegram.]

*Mr. Hay to Mr. Jackson.*

WASHINGTON, *November 29, 1899.*

Prussian fire insurance companies admitted to business in State of New York.

HAY.

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[Inclosure 2 in No. 1092.—Telegram.]

*Mr. Jackson to Mr. Hay.*

BERLIN, *November 29, 1899.*

Prussian minister of interior has requested me to express sincerest thanks to proper authorities.

JACKSON.

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*Mr. Hay to Mr. von Holleben.*

No. 353.]

DEPARTMENT OF STATE,  
*Washington, December 2, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 28th ultimo by which you advise me that the New York Life Insurance Company has, by order of the Royal Prussian ministry of the interior, been readmitted to do business in Prussia.

I have already instructed the United States ambassador at Berlin, by telegraph, to express to the Prussian Government the gratification and pleasure which this action gave to the United States.

Accept, etc.,

JOHN HAY.

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#### HAWAIIAN CONSULS.

No. 649.]

*Mr. Jackson to Mr. Hay.*

EMBASSY OF THE UNITED STATES,  
*Berlin, December 9, 1898.*

SIR: Several months ago, just after the enactment of the law making the Sandwich Islands a part of the United States of America, an application for an American passport was made to this embassy by a young

Hawaiian of American ancestry, who was a student at Harvard and who wished to travel in Russia during the summer vacation. The young man could have obtained a passport from the Hawaiian authorities in the United States, as the islands had not been annexed at the time he left, but as he knew their annexation was about to take place he preferred to wait, hoping to be able to secure an American passport. In view of the fact, however, that the embassy had received no official information as to the annexation of these islands, Ambassador White did not feel at liberty to grant the passport desired.

An application was subsequently made to the Hawaiian chargé d'affaires and consul-general in this city, and a passport was obtained which enabled the young man in question to carry out his plans for the summer.

I was reminded of this incident at the recent opening of the German Reichstag, to which the diplomatic corps received formal invitation, by the presence of the Hawaiian chargé, and by noting that his name still appears in the official list of the diplomatic corps which I obtained yesterday from the foreign office. In view of the fact that no notice has been given the German Government—by this embassy, at least—of the annexation of the Sandwich Islands, I take the liberty of bringing the matter to the attention of the Department and respectfully request that such instructions therein may be given as are found convenient and proper.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Hay to Mr. White.*

No. 716.]

DEPARTMENT OF STATE,  
*Washington, January 10, 1899.*

SIR: I have to acknowledge the receipt of Mr. Jackson's No. 649, of the 9th ultimo, with reference to the status of the Hawaiian chargé d'affaires and consul-general at Berlin. \* \* \*

As stated in my telegram of the 4th instant, the diplomatic functions of the Hawaiian representative as chargé d'affaires ceased upon the annexation of the islands. With reference to his commercial capacity, I enlarge upon my telegrams as follows:

By the joint resolution of Congress, approved July 7, 1898, providing for the annexation of the Hawaiian Islands to the United States it is provided that "until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands, the customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged."

This Government had regarded that provision of law as continuing the commercial relations of the Hawaiian Islands with other States pending such legislation by Congress concerning the Hawaiian Islands as may be deemed necessary or proper, and consequently the United States continues to conduct its commercial business through its own consular officer at Honolulu as a de facto commercial agent, while the Hawaiian consuls in this country continue to act in a similar capacity. Until the commercial dependency of the Hawaiian Islands upon the United States shall be regulated by law, it would seem desirable that the present representatives of the Hawaiian Islands should continue

to discharge their commercial functions as such agents in foreign countries, and until such laws shall be passed this Government is not prepared to commission those consular officers as full consular officers of the United States or to merge their functions in those of existing consular representatives of the United States in the same localities.

With regard, however, to the consular officers of foreign Governments in the Hawaiian Islands the case is somewhat different, and inquiries on this point have been, in several instances, answered by expressing the opinion of this Government that it would be desirable for the existing foreign consuls in the Hawaiian Islands to receive new commissions from their Governments, upon which this Government could issue its exequatur covering the present provisional arrangement with respect to the commercial intercourse of Hawaii with foreign countries.

I am, etc.,

JOHN HAY.

#### PASSPORT OF OSCAR VON WOLFF.

*Mr. Hay to Mr. White.*

No. 745.]

DEPARTMENT OF STATE,  
*Washington, January 27, 1899.*

SIR: Among the applications for passports which accompany Mr. Jackson's dispatch of the 31st ultimo is that of Oscar von Wolff, executed October 12, 1898, before W. P. Leonhard, United States vice and acting consul at Hamburg, upon which passport No. 850 was issued October 22, 1898.

It appears from Mr. Wolff's affidavit that he was born in Silesia, July 9, 1859, and came to this country in 1878; that he served from 1884 to 1892 on board the United States coasting ships, and during the late war with Spain on board the United States ship *San Francisco*, as shown by his discharge paper. He also exhibited a declaration of intention to become a citizen of the United States.

From the statement submitted it would appear a passport should not have been issued in this case. [Service as a seaman or in the naval service of the United States does not in itself confer citizenship. It has never been held by the Department that one who has been an American seaman and has made his declaration of intention to become an American citizen is entitled to receive a citizen's passport until he has complied with the requirements of section 2174 of the Revised Statutes and received naturalization papers from a court having competent jurisdiction. Honorable discharge from an enlistment in the Navy after five years' service is also a cause for naturalization by the courts under the provisions of the act approved July 26, 1894 (vol. 28, United States Statutes at Large, p. 124), but the discharge by itself confers no rights of citizenship.]

I am, etc.,

JOHN HAY.

**"MOST-FAVORED-NATION" CLAUSE, DISCUSSION OF, WITH GERMANY.**

*Mr. White to Mr. Hay.*

No. 738.]

EMBASSY OF THE UNITED STATES,  
*Berlin, February 13, 1899.*

SIR: Referring to my dispatch, No. 737, of the 10th instant, I have the honor to inform you that the interpellation in regard to the commercial relations between the United States and Germany was reached at too late an hour on that day to be discussed, and that consequently it was not taken up by the Reichstag until the afternoon of Saturday, the 11th instant.

That afternoon, after Minister von Bülow, the imperial secretary of state for foreign affairs, had declared his readiness to answer the interpellation, Count Kanitz, its introducer—in a speech of considerable length, which was remarkable for its lack of aggressiveness—referred to the increase in American importations throughout Europe and the decrease in exportation to the United States, reviewing the whole of the American tariff legislation since 1861 and describing what he called the American transition from free trade to extreme protection, and mentioning in particular the Saratoga agreement of 1891 and the more recent convention with the French Republic, the advantages of which had been denied to Germany by the United States—a fact which he considered an absolute breach of the "most-favored-nation" clause of the treaty of 1828 with Prussia. He said that in consequence of this it would not be necessary to give notice of intention to terminate that treaty, but that the German Government was at once in a position to apply the higher rates of duty prescribed in its general tariff. He stated that in his opinion German agriculture could supply all domestic demands for wheat, rye, and meats, and that German mines could do the same in the case of raw copper; that cotton could be imported from Egypt and India, and petroleum from Russia; and that under such circumstances America would feel a tariff war, should it actually come to that, much more than would Germany. He hoped that the Government would show the necessary energy in protecting home interests.

Minister von Bülow at once arose and read a formal reply. \* \* \* In this reply he stated that negotiations were being conducted with the United States Government in regard to commercial matters at the present time, and that consequently, in accordance with diplomatic usage, he was not in a position to discuss them. He wanted the house to know, however, the spirit (geist) in which these negotiations were being conducted. Germany's commercial relations with the United States rest upon the treaty between the United States and Prussia of 1828, and the similar treaty with the Hanse Towns of about the same date. He discussed in detail Articles V and IX of this treaty, explaining the different interpretations given to them by the two Governments concerned. He referred to the treatment of German sugar under the Dingley tariff and stated that German representations in the matter had been so far successful that the indirect export premiums upon sugar exported from other countries were now considered by the American customs officials. He then referred to the question of

tonnage dues, reciting the action of our Government in 1888 and the reversal of the same in 1896, adding that there appeared to be some probability that this question would be regulated by legislation in the United States. He further stated that the German Government had repeatedly informed the American Government of its views in these matters, in regard to the refusal to accord to Germany the benefits of the recent agreement with France, and the action of the American customs officials in regard to exports from Germany. In his opinion it is probable, in view of the increasing exportation of American goods to Germany, that the friendly discussion now going on will have a satisfactory result, and consequently he expressed the hope that the house would show that it had confidence in the Government.

\* \* \* \* \*

I am, etc.,

ANDREW D. WHITE.

*Mr. Hay to Mr. White.*

No. 778.]

DEPARTMENT OF STATE,  
*Washington, February 28, 1899.*

SIR: Your interesting summary of the debate in the Reichstag upon the German-American relations, No. 738, dated February 13, 1899, is received.

There are two points developed in that debate to which I invite your attention.

The first is found in the reference by Baron von Bülow and others to the concession by the United States to Switzerland, under our treaty of 1850, of the benefits accorded to France by our late reciprocal convention of May, 1898, and our refusal to extend the same to Germany. A comparison of the "most-favored-nation" clauses in our treaties with Switzerland and with Prussia will show the radical difference between their stipulations. The plain provisions of article IX of the Prussian treaty of 1828 (reproduced from the former treaty of 1799, Article XXVI) do not exist in the Swiss treaty. Much more conclusive than this, however, is the assurance obtained by an examination of the official papers connected with the negotiation and ratification of the Swiss treaty. This examination revealed the fact that the construction of the treaty claimed by Switzerland was expressly understood at the time by both negotiators and by both ratifying powers. Under these circumstances this Government was bound in honor to yield to the contention of Switzerland, and did so in the official communication of which I inclose you a copy. You will observe in the inclosure that this Government made the concession to Switzerland expressly on the ground of the original agreement of the two parties upon the intent of the peculiar language of the Swiss articles in question.

If his excellency, Baron von Bülow, is not already aware of this exceptional and only reason for the concession to Switzerland, you are at liberty to so advise him; and, if desired, to read to him that part of the inclosed copy of my note to the Swiss envoy<sup>1</sup> which sets forth the reason for our yielding to the claim made by his Government.

<sup>1</sup>Printed under Switzerland, p. 746.

So far as the statements made in debate would mislead public opinion to believe in our unequal treatment of Germany, it is to be regretted that the real facts have not a circulation as wide as that given to the debate. Nothing has been conceded to Switzerland which under like conditions would not have been given to Germany. You will know the best methods for the correction of official and public opinion on this point.

\*            \*            \*            \*            \*            \*

I am, etc., JOHN HAY.

*Mr. White to Mr. Hay.*

No. 800.]

EMBASSY OF THE UNITED STATES,  
*Berlin, March 24, 1899.*

SIR: During my interview with Minister von Bülow, referred to in my dispatch next preceding, having ended the discussion of the Samoan matter, I gave him, as instructed by you, the main points in your No. 778 of February 28, 1899, first expressing to him the pleasure with which the Department had received advices of the friendly tone of his recent speeches in Parliament.

I brought up first the concession, by the United States to Switzerland under our treaty of 1850, of the benefits accorded to France by the reciprocal convention of May, 1898, and I compared the most-favored-nation clauses in our treaties with Switzerland and Prussia, showing him the radical differences between their stipulations and reading to him portions of your note No. 201 of November 21, 1898, to the Swiss envoy in Washington in confirmation of these statements, and as proof that the concession was made only when it had become evident that the treaty with Switzerland, and the understanding of it as recorded on both sides, plainly demanded such concession.

I also promised to send him an aide memoire on the subject.

He gave close attention to the matter, and then spoke of the desirability of sundry small commercial concessions from the United States to Germany which, though amounting in the aggregate to but a moderate sum, would, he thought, have a most excellent effect both on the Imperial Parliament and on American opinion in general.

I asked him to send me a memorandum regarding these concessions, which he promised to do, and when it shall have arrived I will communicate it to the Department.

I am, etc.,

ANDREW D. WHITE.

*Mr. White to Mr. Hay.*

No. 804.]

EMBASSY OF THE UNITED STATES,  
*Berlin, March 27, 1899.*

SIR:

\*            \*            \*            \*            \*            \*

Reduced to a few words it appears that Germany's grievances against the United States arise practically from the prevailing difference of interpretation of the meaning of the most-favored-nation clause in the treaty with Prussia of 1828. Count Posadowsky referred to

this treaty and the commercial treaties with the Hanse Towns of about the same date (mentioning casually that almost all German exportations to America went by way of these "Towns") as being recognized by Germany as fully in force. He said that practically the question was this: Either Germany should enjoy all the commercial benefits accorded by the United States to any third country, whether under reciprocity treaties or not, and unrestricted most-favored-nation treatment should prevail, or it must be considered that restricted ("beschränkte") most-favored-nation treatment should prevail, and that Germany had made a mistake in according to us without concession the benefits of the seven Caprivian treaties of commerce, which were based upon reciprocal concessions. He considered that the most-favored-nation clause had been violated by us when we first put a differential duty upon sugar exported from bounty-paying countries, that it had been further violated when this duty was made compensatory, and still further when we declined to accord to Germany gratuitously the benefits of the recent commercial convention with France, which we have accorded to Switzerland. The value of this last to us he estimated as only about \$200,000, while it touched Germany in a particularly sensitive place, as she felt that her "right" had not been recognized.

Count Posadowsky was much interested in learning that American products imported into Cuba and Porto Rico and Cuban and Porto Rican products imported into the United States were treated in the same way as imports from any other country, and agreed with Mr. Porter in the hope that better times in America would increase the importation of German products. The practical question, however, he said, was whether Germany should continue in her understanding of the meaning of most-favored-nation treatment, or should adopt that of the United States and decline for the future to accord us the advantages of the Caprivian commercial treaties.

\* \* \* \* \*

I am, etc.,

ANDREW D. WHITE.

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*Mr. Hay to Mr. White.*

No. 830.]

DEPARTMENT OF STATE,

*Washington, April 7, 1899.*

SIR: Your dispatch No. 800, dated March 24, 1899, informs the Department of your conversation with Minister von Bülow in respect to our construction of the most-favored-nation clauses of our treaty with Switzerland.

Under the discovery of the actual understanding of the parties to that treaty at the time of its ratification, the attention of this Government was for the first time in the half century of the treaty's existence directed to its variance from our well-understood national policy; and the Swiss Government was advised that if not modified by a new agreement in harmony with that policy, we should feel obliged to terminate the treaty.

The conventional notification to arrest the operation of this treaty has been given to Switzerland since the date of my No. 778, to which

your present dispatch is a reply. You may incidentally mention the fact of this denunciation to Baron von Bülow.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. White.*

No. 834.]

DEPARTMENT OF STATE,  
*Washington, April 8, 1899.*

SIR: Your dispatch No. 804, dated March 27, 1899, communicates the views of Count Pasadowsky, minister of the interior, respecting the interpretation of the most-favored-nation clauses of our treaty. It may be convenient to you to recall a previous occasion when the subject was discussed on the part of Germany.

The question appears to have arisen between Germany and Hawaii in 1878, as a result of the reciprocity convention of 1875 between the United States and Hawaii. The Hawaiian special envoy to Berlin, Mr. Carter, discussed it at that time, and reported to his Government that "an article was framed by which it was agreed that the special advantages granted to the Government of the United States in consideration of equivalent advantages should not in any case be invoked in favor of Germany." (See Foreign Relations of United States, 1878, p. 403; also pp. 382 and 405.)

While we do not deny the right of Germany to adopt the same construction which controls the action of this Government, it should be remembered that whatever construction is adopted it must be applied uniformly to all governments whose interests are protected by the like treaty clauses. Otherwise Article XXVI of the convention would be violated. If the compensatory privileges should be extended to any third nation, which has given no special compensation for them, it is evident that as to that nation the grant would be gratuitous, and, by the express provision of Article XXVI, "Shall immediately become common to the other party, freely."

This point should not be overlooked in any serious discussion of the subject on the part of your embassy. It is evident that Germany can not apply one construction in her relations with this Government and another in her relations with an European government.

I am, etc.,

JOHN HAY.

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*Mr. White to Mr. Hay.*

No. 834.]

EMBASSY OF THE UNITED STATES,  
*Berlin, April 26, 1899.*

SIR: I have the honor to inform you that the information contained in your instruction No. 830, of April 7, that the conventional notification had been given by the United States to arrest the operation of its treaty of 1850 with Switzerland, was brought to the attention of the imperial foreign office immediately upon its receipt.

I am, etc.,

ANDREW D. WHITE.



**PROTECTION OF GERMANS IN PHILIPPINES.***The German Ambassador to Mr. Hay.*GERMAN EMBASSY, *February 28, 1899.*

## MEMORANDUM.

Owing to recent menaces of German interests in China it appears probable that the last German warship, now in the Philippines, will be recalled from there. In this case the German Government has expressed the hope that the protection of life and property of German citizens, and of such people enjoying German protection in the Philippines, will be undertaken by the United States forces.

*Mr. Hay to Mr. von Holleben.*DEPARTMENT OF STATE,  
*Washington, February 28, 1899.*

MY DEAR AMBASSADOR: I take pleasure in acquainting you that the President, to whom I referred the memorandum you left with me this morning, has instructed General Otis and Admiral Dewey to assume the protection of German citizens and those hitherto enjoying German protection in the Philippines.

I am, etc.,

JOHN HAY.

**CONSULAR IMMUNITIES.***Mr. Hay to Mr. White.*

No. 787.]

DEPARTMENT OF STATE,  
*Washington, March 6, 1899.*

SIR: Inclosed herewith please find a dispatch, with inclosure from Consul-General Guenther dated February 20, 1899, in relation to a summons issued to him as a witness to testify in a certain case against Ludwig Bettag for alleged violation of his military duty.

There is no exemption from summons stipulated in the consular convention of 1871 between the United States and Germany; and such privilege can not be claimed unless it can be shown that the consul-general is entitled to such immunity in virtue of the most-favored-nation clause, which provides that our consuls in Germany "shall enjoy all privileges, exemptions, and immunities which have been granted, or may in future be granted, to the agents of the same rank of the most favored nation." You will determine whether such immunity exists.

But by express stipulation of said Article III, Mr. Guenther, not being a citizen of Germany, enjoys "personal immunity from arrest or imprisonment, except in the case of crime." The menace of the fine, arrest, and imprisonment, not for any crime, against the consul-general, appears to be gratuitous, and wanting in the respect due from

one friendly government toward the consular officer of another; and, if carried into execution, would appear to be a flagrant violation of the express treaty engagement.

Article V provides that "the offices and dwellings of consuls missi, who are not citizens of the country of their residence, shall be at all times inviolable. The local authority shall not, except in the case of the pursuit for crime, under any pretext invade them."

While Mr. Guenther's office and dwelling are inviolable, he is threatened with arrest and imprisonment outside, or by virtual imprisonment inside, his office and dwelling, if he fails to obey the process, either by arresting him outside of his dwelling and office or inside thereof; or, if it is not sought to arrest him outside, to virtually imprison him within by making it impossible for him to go out without being subject to arrest and imprisonment.

It appears, moreover, that the summons is addressed to him as consul-general of the United States, and he is, as such officer, required, in answer to question one, attached to the process, to give evidence, "from papers to be shown," whether "Bettag is an American citizen." The papers referred to are evidently those belonging to the consular archives. This would seem to be violative of Article V, which provides that "the consular archives shall be at all times inviolable, and under no pretense whatever shall the local authorities be allowed to examine the papers forming part of them." While the papers are protected from seizure or examination, the thing prohibited is sought to be accomplished by compelling the consul to show them or to disclose their contents.

In connection with this instruction you are referred also to instruction No. 140, July 31, 1894 (inclosed herewith), to Consul-General Mason, as to the immunity of consuls from giving information obtained in the capacity of consul of the United States.

You will bring the matter to the attention of the German Government and make known the views of this Government touching the conduct observed toward Consul-General Guenther.

I am, etc.,

JOHN HAY.

[Inclosure 1 in No. 787.]

*Mr. Guenther to Department of State.*

No. 6.]

UNITED STATES CONSULATE-GENERAL,  
*Frankfort on the Main, February 20, 1899.*

I have the honor, in conformity with paragraph 77 of the Consular Regulations, to report that the following correspondence in the German language has passed between this consulate-general and the royal court of Frankfort on the Main, which is hereby translated to English:

"In the process against Ludwig Bettag, of Dudenhofen, for violation of his military duty, you are summoned for examination as a witness by order of the royal court in its place of business, court-house, room 24, before the royal court assessor, Mr. Wick, Tuesday, February 21, 1899, at 10 a. m. Witnesses who do not appear without sufficient excuse are to be sentenced, according to paragraph 50 of the penal code, to pay the costs occasioned by such nonappearance, also to a fine not to exceed 300 marks; and if this is not paid, to imprisonment not to exceed six weeks—producing them by arrest is also admissible.

"In case that you have left the domicile stated in this summons, or if you should change it before the day of trial, you are required to give such notice without delay.

"Frankfort on the Main, February 16, 1899.

"BARMERS,

*"Clerk of the Royal Court 6.*

"You shall be examined as to—

"1. Whether, from papers to be shown, it appears that Bettag is an American citizen.

"2. Whether, the possession of American citizenship is necessary to enter the American Army as a musician.

"3. In how much time a certification of the acquisition of American citizenship, in case of this being so, can be received from America.

"To the consul-general of the United States of North America, Mr. Guenther, present, Niedenau 78."

In answer to this summons, I sent the following note to the royal court:

"FRANKFORT ON THE MAIN, *February 20, 1899.*

"The undersigned, consul-general of the United States of America, received, in the evening of the 18th of this month, a summons dated February 16, 1899, to be examined as a witness in the process against Ludwig Bettag, of Dudenhofen. R. H. 127/99. St. A. Frankenthal. The undersigned is always willing to comply with the wishes and requests of the authorities in the German Empire, provided they are made in proper form and are conformable with his official duties and his views of them.

"Said summons, however, especially in its form under threats of fines and imprisonment and eventual arrest, is a violation of the consular convention between Germany and the United States, and the undersigned is compelled to complain of such treatment and most respectfully but decidedly protest.

"In addition he would add that he is perfectly willing to answer the questions relative to the Bettag case, as far as he is able to, provided the royal court requests him to do so in the same proper manner as would be done by the American authorities under similar circumstances toward consular officers of the German Empire in the United States."

With great respect,

RICHARD GUENTHER,  
*United States Consul-General.*

[Inclosure 2 in No. 787.]

*Mr. Rockhill to Mr. Mason.*

No. 140.]

DEPARTMENT OF STATE,  
*Washington, July 31, 1894.*

SIR: I have to acknowledge the receipt of your dispatch No. 288, of the 9th instant, reporting that you have been summoned to appear as a witness in court in a suit brought by Julius Teufel against Henry Nickel for defamation of character, it being sought to obtain from you testimony concerning statements submitted to you by the said Nickel alleging that Mr. Teufel had undervalued certain surgical goods exported to the United States.

The information regarding which your testimony is desired was conveyed by Mr. Nickel to you in your capacity of consul-general of the United States, and as such officer you took action and communicated the statements to the Department, thereby making them a part of the records of your consulate.

It is provided in Article V of the treaty of 1871 with Germany that the consular archives shall be at all times inviolable; and where communications are from their nature confidential, for the cognizance of the consul's Government only, it is clear that consular officers should not be called upon to testify regarding them.

The Department, therefore, can not authorize you to testify in the case, on the ground that whatever knowledge you may have is official and privileged, because concerning only your relation to your own Government.

It is also very probable that Germany has a treaty with France, or with some other country, giving consular officers the privilege of declining to appear in courts as witnesses. In such event, the position now taken would be fortified by the provisions regarding privileges and immunities granted to the most favored nation contained in Article III of the treaty of 1871 with Germany.

From the inclosed letter from the Treasury Department you will see that the Secretary of the Treasury is of the opinion that your appearance as a witness would be detrimental to the interests of this country.

I am, etc.,

W. W. ROCKHILL,  
*Third Assistant Secretary.*

*Mr. Hay to Mr. White.*

No. 814.]

DEPARTMENT OF STATE,  
*Washington, March 25, 1899.*

SIR: Referring to the Department's instruction No. 787, of the 6th instant, in regard to a summons issued to Consul-General Guenther to appear as a witness in a German court, I inclose for your information copies of correspondence as indicated below in regard to the happy termination of the incident.

I am, etc.,

JOHN HAY.

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[Inclosure 1 in No. 814.]

*Mr. Guenther to Department of State.*

No. 8.]

UNITED STATES CONSULATE-GENERAL,  
*Frankfort, February 28, 1899.*

I have the honor to respectfully report that in response to my protest against a "subpcna" which I received from the royal court of Frankfort, as stated in my dispatch to the Department of State under date of February 20, 1899, I received an answer on the 25th instant. In the same I am requested in a polite manner to give my testimony on Tuesday, February 28, 1899, between the hours of 9 to 12 a. m.

It also states that the summons of which I complained was made out, by mistake, in the usual form. I have complied with the request and answered the questions propounded in court, where the officials verbally apologized and said that they had not been aware of the existence of the consular convention of 1871.

I am, etc.,

RICHARD GUENTHER, *Consul-General.*

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[Inclosure 2 in No. 814.]

*Mr. Cridler to Mr. Guenther.*

No. 6.]

DEPARTMENT OF STATE,  
*Washington, March 16, 1899.*

SIR: Your No. 8 of the 28th ultimo, relative to a royal summons issued to you by the royal court of Frankfort, has been received.

The Department is gratified to learn of the satisfactory termination of the incident.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

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### TOYS FROM GERMANY.

*Mr. von Holleben to Mr. Hay.*

IMPERIAL GERMAN EMBASSY,  
*Washington, March 10, 1899.*

MR. SECRETARY OF STATE:

It is provided by the act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1900, which act was signed on the 1st instant by the President of the United States, that "the Secretary of Agriculture, whenever he has reason to believe that articles are being imported from foreign countries which are dangerous to the health of the people of the United States, shall make

a request upon the Secretary of the Treasury for samples from original packages of such articles for inspection and analysis, and the Secretary of the Treasury is hereby authorized to open such original packages and deliver specimens to the Secretary of Agriculture for the purpose mentioned, giving notice to the owner or consignee of such articles, who may be present and have the right to introduce testimony, and the Secretary of the Treasury shall refuse delivery to the consignee of any goods which the Secretary of Agriculture reports to him to have been inspected and analyzed and found to be dangerous to health."

As this measure, according to statements published in the press, extends to toys imported from Germany, I have the honor, in pursuance of instructions received from my Government, to beg your excellency kindly to inform me whether there are any legal provisions in the United States relative to the use of paint on toys, and, if so, what the nature of those provisions is.

As your excellency may perhaps be aware, the Imperial Government, as long ago as 1887, made provision, by a law bearing date of July 5 of that year, for the countries embraced in the German Empire, for the establishment of permanent rules for the toy industry, in default of a uniform opinion, even among experts, with regard to what was to be considered permissible or prohibited.

That law was published in the official journal of the Empire (Reichsgesetzblatt, No. 23, of July 9, 1887.

I have the honor herewith to inclose a circular relative to this matter, issued by the chamber of commerce and manufactures of Sonneberg, together with an inclosure containing the main provisions of said law, for your excellency's information.

If there are no such positive provisions in the United States, I will thank your excellency for a statement whether these positive restrictions, which have been adopted in Germany as regards the use of paint on toys, as they appear from the aforesaid law, are considered sufficient by the United States Government.

I further desire to request your excellency to inform me of the result of any analyses that may have been made by the Department of Agriculture of toys imported from Germany.

Finally, it would be of interest to the Imperial Government to know what provisions have been adopted by the Federal Government and the governments of the individual States relative to the adulteration of articles of food and drink, which are referred to in the provision in question of the appropriation bill.

As regards the measures which have been adopted on this subject in the German Empire and the Federated States, and also as regards the provisions whereby inspection of alimentary substances in the Empire is secured, I would refer to the note of the foreign office at Berlin of March 18, 1887, to Mr. Edwin F. Uhl, at that time United States ambassador.

Accept, etc.,

HOLLEBEN.

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[Inclosure in Mr. von Holleben's note of March 10, 1899.]

The law concerning the use of paints injurious to health, in the manufacture of articles of food and those for use among which our toys are included (by toys, in the meaning of the law, we are to understand everything that is included under the head of Sonneberg playthings, such as toys of all kinds, dolls, figures, and especially tricks) will take effect May 1, 1888.

In order to furnish information to interested parties concerning the provisions of this law, and to protect them from injury, the chamber of commerce and manufactures deems it to be its duty to take the necessary steps without further delay.

Concerning the use of paints which, according to the law (sections 1, 2, and 4) are prohibited and permitted in the manufacture of toys, we give the following statement, which has been prepared by an expert:

According to sections 12 and 13 any person is liable to a fine not exceeding 50 marks, or to imprisonment, who makes, offers for sale, or sells toys prepared with paints the use of which is prohibited. At the same time the court may order the confiscation of the toys in question.

In the case of aggravated offenses, the delinquent renders himself liable to much more severe penalties, viz, imprisonment, loss of civil rights, etc., as provided in the law of May 14, 1879.

We call the attention of all manufacturers, embossers, painters, workers, and dealers to the serious consequences of a violation of these legal provisions.

If, for instance, white lead should be used for painting toys, punishment might be inflicted for one and the same article in ten and more different places in Germany; the entire stock would be confiscated, and the aggregate of penalty and loss would finally come upon the maker of the article.

We consequently consider it absolutely necessary that all toys manufactured hereafter be painted only with such paints as the law allows, for such toys will, with few exceptions, not be offered for sale until after May 1, 1888.

We therefore warn all persons not to use old paints which they may have on hand, provided that they do not meet the requirements of the law for painting toys, and not even to mix them with new paints, and we advise, when paints are purchased in future, that the seller be required to furnish a guaranty that the paints are allowed by the law of July 5, 1887, to be used for painting toys.

Finally we recommend to all merchants to require, both in their orders and also by word of mouth, with emphatic reference to the provisions of the law that none but paints which are allowed by law shall be used.

The object of the chamber of commerce and manufactures in this matter is merely to facilitate the fulfillment of the requirements of the law and to protect our manufacturers from loss.

In carrying out this purpose it hopes for general support.

OTTO DRESSSEL, Sr.,  
*President of the Chamber of Commerce and Manufactures.*

A. MEURER,  
*Secretary of the Chamber of Commerce and Manufactures.*

SECTION 1. Of colors, the use of which is prohibited in painting toys.

No colors (with certain exceptions) may be used in the manufacture of toys which contain antimony, arsenic, barium, lead, cadmium, chrome, quicksilver, uranium, zinc, tin, gamboge gum, coraline, picric acid.

*Exceptions.*—Of colors which are allowed to be used in painting toys, with certain restrictions, it is allowable to use:

Oxide of lead in varnish—i. e., all varnishes which are produced with the aid of litharge.

Chromate of lead (separate or in combination with sulphate of lead) only as an oil or lacquer paint, or as a coating of lacquer or varnish. Here belong the various kinds of chrome yellow, chrome orange, and chrome red, and also mixtures of chrome yellow with Berlin or Paris blue as they are found in commerce, for instance, as green cinnabar.

White lead (Krem's white lead) only as a component part of articles made of wax cast in a mold, but with the proviso that the white lead shall not exceed in weight 1 part in 100 parts of the entire mass. The use of white lead in any other way is strictly prohibited.

Combinations of zinc that are insoluble in water. Zinc white, lithopone, chromate of zinc, mixtures of chromate of zinc and paris blue, as they are met with in commerce, under the name of victoria green, with an addition of chromic oxide and baryta (heavy spar).

In the case of india rubber, combinations of zinc that are insoluble in water may be used only for coloring the mass of rubber, or when they are used as oil or lacquer colors, or with a coating of lacquer or varnish.

All colors burnt into glazing or enamel. For these purposes combinations of arsenic, such as white arsenic, arsenical acid, orpiment and realgar may be used. (For the eyes of dolls and animals and for dolls' trappings.)

Sulphate of barium, as it is met with in commerce, or blanc fixe, both separate and mixed with other colors.

Baryta colors that are free from carbonate of barium. The substances that are chiefly considered here are yellow and orange coloring matters which are made by the aid of tar coloring matters; yellow, orange, red, and green colors that foam up when mixed with strong vinegar are to be regarded with suspicion.

Chromic oxide is known in commerce as chrome green and Guignet's green.

Copper, tin, zinc, and their alloys as metallic colors. Among these are included: Dutch gold and Dutch silver, bronze color and brocade colors of all kinds.

Cinnabar. N. B.—Manufacturers must be on their guard against the so-called imitation of cinnabar, or substitute for cinnabar. The color which is met with in commerce contains a great deal of lead, and is prohibited.

Oxide of tin. This substance is not used by itself as a color; it is, however, contained in all colors in the manufacture of which it has been used; for instance, in fine lake.

Sulphuret of tin as mosaic gold. This substance is only of exceptional importance in the toy industry.

SEC. II. Wall papers, material used in the manufacture of furniture, carpets, material for hangings or drapery (dolls' wearing apparel, babyhouses, dolls' kitchens, stores where dolls' goods are sold). Masks, wax candles and artificial leaves, flowers and fruits may, even when they are to be used in the manufacture of toys or separately, be painted with any color that may be thought desirable, with the single exception of arsenious colors, such as Schweinfurt green, Scheele's green, Vienna green, Neuwied green, yellow sulphuret of arsenic, or tersulphide of arsenic. Furthermore, in these substances arsenic may be contained as a mordant, or means of fixing other colors; it must then, however, not be in a form that is soluble in water, or in such a quantity that more than 2 milligrams of arsenic are to be found in 100 square centimeters of material.

The last restrictions are of scarcely any practical importance to the toy industry.

SEC. III. The same colors which are allowed in the manufacture of toys may also be used in making paper for pictures, picture books, and water colors for children. Such water colors may be sold as free from poison.

SEC. IV. Special care must be taken in manufacturing toys not to use white lead, or Krem's white lead, red lead, chromate of baryta, Naples yellow, Cassel yellow, mineral yellow, verdigris, mountain blue, Steinbuhl yellow, Schweinfurt, Neuwied, and similar greens, and Casselmann's green.

The following may be used without restriction:

Cinnabar, zinc white, lithopone, all metallic colors, all kinds of terreous colors, such as ochre of various hues, of aniline colors, all blues, violet coloring matters, all ponceaus, all orange coloring matters, and also methyl green, brilliant green, malachite green, chrysoidin, naphthyl yellow, Martin's yellow, eosin, phloxin, safranin, erythrosin, fuchsin, phenyl brown, analin black.

OTTO DRESSSEL, Sr.,

*President of the Chamber of Commerce and Manufactures.*

A. MEURER,

*Secretary of the Chamber of Commerce and Manufactures.*

SONNEBERG, December 4, 1887.

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*Mr. Hay to Mr. von Holleben.*

No. 260.]

DEPARTMENT OF STATE,

*Washington, May 16, 1899.*

EXCELLENCY: Referring to your expressed desire to receive an answer to your note of March 10 last, inquiring whether the provisions of the act of March 1, 1899, relative to the inspection and analysis of articles imported into the United States supposed to be dangerous to the public health, are applicable to toys imported from Germany, I have the honor to inform you that I have this day requested the Secretary of Agriculture, to whom your note, with its inclosures, was referred, to expedite his reply with as little delay as possible.

Accept, etc.

JOHN HAY.

*Mr. Hay to Mr. von Holleben.*

No. 271.]

DEPARTMENT OF STATE,  
*Washington, June 2, 1899.*

EXCELLENCY: As I had the honor to inform you on the 16th ultimo, I on that date requested the Secretary of Agriculture, to whom your note of March 10 last had previously been referred, to expedite a reply thereto with as little delay as possible.

In that note you cite the provisions of the act of Congress, approved March 1, 1899, relative to the inspection and analysis of articles imported into the United States supposed to be dangerous to the public health, and asked for information, as follows:

1. Whether there are any legal provisions in the United States relative to the use of paint on toys, and if so, what the nature of those provisions is.

2. Whether, if there are no such positive provisions in the United States, the positive restrictions which have been adopted in Germany, as regards the use of paint on toys, as they appear from the law, are considered sufficient by the United States Government.

3. As to the result of any analysis that may have been made by the United States Department of Agriculture of toys imported from Germany.

4. As to the regulations which have been adopted by the Federal Government and by the several States relative to the adulteration of food and drink, which are referred to in the act of Congress of March 1, 1899.

In reply to your first inquiry, the Secretary of Agriculture, whose response is before me, states that his Department has made no examination of the laws of the several States relative to this question, and that therefore he is not in a position to answer authoritatively, but he adds that where there are no specific statutes he has no doubt but that general statutes will apply, but that their construction would be under the jurisdiction of the several courts.

With reference to your second inquiry, Mr. Wilson is unable to express an opinion as to the sufficiency of the German law, as much depends upon its application under the influence of local interests. Whether the law is or is not sufficient can only be determined by the actual results which follow its application.

With reference to your third inquiry, the Secretary of Agriculture states that the paint on a considerable number of toys has been analyzed, some of these toys having been made in Germany, and that a portion of the German toys were painted with compounds of lead, chromium, cobalt, and other poisonous paints.

Relative to your fourth inquiry, Mr. Wilson states that it is understood that numerous laws in regard to the purity of articles of food have been adopted in the various States, and that others are under consideration both in Congress and in State legislatures. As State legislation is entirely distinct from Federal legislation, and as its enforcement is not under the jurisdiction of the Federal Government, the Secretary of Agriculture has not compiled the statutes or the decisions which have been made in regard to them.

The importation of articles into the United States comes, however, exclusively under Federal jurisdiction, and it is entirely within the province of Congress to legislate in regard to importations, and for the



executive departments to enforce such legislation without regard to the laws of the several States. That is, it is the duty of the Federal Government to protect the people of the various States from impure, adulterated, or poisonous articles imported from other countries.

Accept, etc.,

JOHN HAY.

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**LANDING OF GERMAN CABLE IN UNITED STATES.**

*Mr. von Holleben to Mr. Hay.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, March 29, 1899.*

MR. SECRETARY OF STATE:

I had the honor some time ago to call your excellency's attention verbally to the deep interest which was felt by His Majesty the Emperor, and the Imperial Government in the establishment, as speedily as possible, of direct submarine telegraphic communication between the German Empire and the United States of America. A plan relative to this matter has now been set on foot by a German company and the necessary funds have been secured. The project is in the hands of the German-Atlantic Telegraph Company, and the capital raised amounts to 20,000,000 marks. The firm of Felten & Guilleaume, which belongs to said company, has sent Mr. W. J. Spoerer to this country as its representative.

I have the honor herewith to transmit to your excellency a petition on this general subject presented in the name of the aforesaid company, from which the particulars will be seen and which will, if desired, be followed by more complete details; and I express the pleasing hope that your excellency will receive this petition with favor, and that the accomplishment of the plan will form a stronger link between the two friendly nations.

Accept, etc.,

HOLLEBEN.

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[Inclosure.]

*Mr. Spoerer to Mr. Hay.*

ARLINGTON HOTEL,  
*Washington, D. C., March 28, 1899.*

SIR: The undersigned firm of Felton & Guilleaume, of Carlswerk, Mülheim-on-the-Rhine, Germany, for and on behalf of the Deutsch-Atlantische Telegraphen Gesellschaft (German Atlantic Telegraph Company), a corporation which has been organized under the laws of the Empire of Germany, respectfully make application to the Government of the United States of America for permission to land on the shore of the United States a submarine telegraph cable, which that company proposes to lay and operate between Borkum-Emden, in the Empire of Germany and the city of New York, touching at the Azores, the point of landing in the United States now contemplated being Coney Island, city of New York, State of New York.

I have, etc.,

FELTON & GUILLEAUME,  
By W. J. SPOERER, Agent.

*Mr. Hay to Mr. von Holleben.*

No. 232.]

DEPARTMENT OF STATE,  
*Washington, April 10, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 29th ultimo, transmitting and strongly recommending to the favorable consideration of this Government the application of the firm of Felten & Guilleaume, of Carlswek, Mülheim-on-the-Rhine, Germany, for and on behalf of the Deutsch-Atlantische Telegraphen-Gesellschaft, a corporation organized under the laws of the Empire of Germany, for permission to land on the shores of the United States a submarine telegraph cable, which that company proposes to lay and operate between Borkum-Emden, Germany, and the city of New York, touching at the Azores.

The President having duly considered the said application, consents that the said company may lay, construct, land, maintain, and operate telegraph lines or cables on the Atlantic coast of the United States to connect Borkum-Emden, in the Empire of Germany, and the city of New York, touching at the Azores, this concession to become operative when the Deutsch-Atlantische Telegraphen-Gesellschaft shall have filed in the Department of State its formal acceptance in writing of the terms and conditions on which the said consent is given, and which are comprised in the memorandum inclosed herewith.

Accept, etc.,

JOHN HAY.

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[Inclosure.]

MEMORANDUM.

In the matter of the application of the Deutsch-Atlantische Telegraphen-Gesellschaft of Germany for permission to land on the shores of the United States a submarine telegraph cable, to be laid between Germany and the United States.

The President having duly considered said application, hereby consents that said company may lay, construct, land, maintain, and operate telegraphic lines or cables on the Atlantic coast of the United States, to connect Borkum-Emden, in the Empire of Germany, and the city of New York, touching at the Azores.

It is a condition to the granting of said consent that said company first file with its said application, in the Department of State, its written acceptance of the terms and conditions on which said consent is given, to wit:

I.

That neither the said company, its successors or assigns, nor any cable with which it connects, shall receive from any foreign government exclusive privileges which would prevent the establishment and operation of a cable of an American company in the jurisdiction of such foreign government.

II.

That the company has received no exclusive concession from any government which would exclude any other company or association, which may be formed in the United States of America, from obtaining a like privilege for landing its cable or cables on the shores of Germany, and connecting such cable or cables with the inland telegraphic systems of said country.

## III.

That the said company shall not consolidate or amalgamate with any other line or combine therewith for the purpose of regulating rates.

## IV.

That the company will, in the transmission of official messages, give precedence to messages from and to the Government of the United States of America and of other governments.

## V.

That the rates charged to the Government of the United States shall not be greater than those to any other government, and the said rates and those charged to the general public shall never exceed the present telegraphic rates between said countries, and shall be reasonable.

## VI.

That the Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, or agreement be granted by said company or its successors or assigns to any other government.

## VII.

That the citizens of the United States shall stand on an equal footing as regards the transmission of messages over said company's lines with citizens or subjects of Germany or any other country with which said cable may connect.

## VIII.

That messages shall have precedence in the following order:

- (a) Government messages and official messages to the Government.
- (b) Service messages.
- (c) General telegraphic messages.

## IX.

The said line shall be kept open for daily business, and all messages in the order above be transmitted according to the time of receipt.

## X.

That no liability shall be assumed by the Government of the United States by virtue of any censorship which it may exercise over said line in the event of war or civil disturbance.

## XI.

That the consent hereby granted shall be subject to any future action by the Congress or by the President, affirming, revoking, or modifying, wholly or in part, the said conditions and terms on which said permission is given.

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*Deutsche-Atlantische Telegraphen-Gesellschaft to Mr. Hay.*

KÖLN AM RHEIN, *May 13, 1899.*

SIR: The undersigned company, "the Deutsch-Atlantische Telegraphen-Gesellschaft," of Cologne, Germany, hereby respectfully begs to acknowledge the receipt through the medium of the foreign office of Berlin of the President's gracious consent that said company may lay, construct, land, maintain, and operate telegraphic lines or cables on the Atlantic coast of the United States, to connect Borkum-Emden,

in the Empire of Germany, and the city of New York, touching at the Azores.

The said company now hereby begs to file its acceptance of the proposed terms and conditions, on which said consent is given, to wit:

I.

That neither the said company, its successors or assigns, nor any cable with which it connects shall receive from any foreign government exclusive privilege which would prevent the establishment and operation of a cable of an American company in the jurisdiction of such foreign government.

II.

That the company has received no exclusive concession from any government which would exclude any other company or association which may be formed in the United States of America from obtaining a like privilege for landing its cable or cables on the shores of Germany, and connecting such cable or cables with the inland telegraphic systems of said country.

III.

That the said company shall not consolidate or amalgamate with any other line or combine therewith for the purpose of regulating rates.

IV.

That the company will, in the transmission of official messages, give precedence to messages from and to the Government of the United States of America and of other governments.

V.

That the rates charged to the Government of the United States shall not be greater than those to any other Government, and the said rates and those charged to the general public shall never exceed the present telegraphic rates between the said countries, and shall be reasonable.

VI.

That the Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, or agreement be granted by said company or its successors or assigns to any other government.

VII.

That the citizens of the United States shall stand on an equal footing as regards the transmission of messages over said company's lines with citizens or subjects of Germany or any other country with which the said cable may connect.

VIII.

That messages shall have precedence in the following order:

- (a) Government messages and official messages to the Government.
- (b) Service messages.
- (c) General telegraphic messages.

IX.

The said line shall be kept open for daily business, and all messages, in the order above, be transmitted according to the time of receipt.

X.

That no liability shall be assumed by the Government of the United States by virtue of any censorship which it may exercise over said line in the event of war or civil disturbance.

## XI.

That the consent hereby granted shall be subject to any future action by the Congress or by the President, affirming, revoking, or modifying, wholly or in part, the said conditions and terms on which said permission is given.

The undersigned company at the same time most respectfully begs to express its best thanks for the granting of said consent, and awaits with pleasure the final document from the Department of State.

We have, etc.,

DEUTSCH ATLANTISCHE TELEGRAPHENGESELLSCHAFT.  
C. W. GUILLEAUME, No. 36764, Rep.

The undersigned, a notary public for the district of the royal oberlande court at Cologne, residing at Cologne-on-the-Rhine, counselor of justice, Franz Friedrich Wilhelm Goecke, hereby attests under his official seal the genuineness of the above signature, written in his presence by Carl Wilhelm Guillaume, whose name, occupation, and place of residence are known to him. The said Carl Wilhelm Guillaume being a merchant, residing at Cologne, and a member of the board of directors of the stock company known as the German Atlantic Telegraph Company (Deutsch Atlantische Telegraphengesellschaft), located at Cologne.

Cologne, May 15, 1899.

[L. s.]

GOECKE,  
*Royal Notary and Counselor of Justice.*

The foregoing signature of the royal notary, counselor of justice, Goecke, of Cologne, is hereby authenticated. It is further certified that the notary was authorized to give the above certificate, and that the said certificate is in conformity with the legal provisions enforced here.

Cologne, May 15, 1899.

[SEAL.]

LUTZELER,  
*Chief Justice of the Provincial Court,  
Superior Privy Counselor of Justice.*

CONSULATE OF THE UNITED STATES OF AMERICA AT COLOGNE, GERMANY, ss:

I, John A. Barnes, consul of the United States of America at Cologne, Germany, do hereby certify that Lutzeler, whose name is subscribed to the annexed instrument of writing, was, at the time of subscribing the same, Royal Prussian president of the land court of justice, duly commissioned, and that full faith and credit are due to his acts as such.

Given under my hand and seal of office this 15th day of May, A. D. 1899.

[SEAL.]

JOHN A. BARNES,  
*Consul of the United States of America.*

No. 138.

This is to certify that the foregoing document is executed and properly legalized according to the requirements of the German law.

Washington, D. C., May 26, 1899.

[SEAL.]

HOLLEBEN,  
*Imperial German Ambassador.*

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*The German Emperor to the President.*

[Telegram.]

BERLIN, August 30, 1900.

On the occasion of the opening this day of the cable that brings Germany in close telegraphic union with the United States, I rejoice to express to your excellency my gratification at the completion of this important work of peace. I know that your excellency and I are of one mind in the wish and in the hope that the cable connection will promote the general welfare and help in maintaining and strengthening friendly relations between the two countries.

WILHELM I. R.

*The President to the German Emperor.*

[Telegram.]

EXECUTIVE MANSION,  
Washington, August 30, 1900.

I receive with great satisfaction your majesty's message of felicitations upon the opening of the cable completing the chain of closer communication between this country and the German Empire. In this age of progress every tie that brings nations nearer in their commercial relations and friendly interest works their common good and can not fail to strengthen their cordiality and promote their mutual advancement in their paths of peace.

WILLIAM McKINLEY.

**MILITARY SERVICE CASES.***Mr. White to Mr. Hay.*No. 810.] EMBASSY OF THE UNITED STATES OF AMERICA,  
Berlin, March 31, 1899.

SIR: Referring to Mr. Jackson's dispatch No. 684, of December 31, 1898, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have not as yet been referred to in previous correspondence with the Department.

I am, etc.,

ANDREW D. WHITE.

**MILITARY CASE REPORT.**

1. The brothers, Paul and Peter Hünérjäger, brought their case to the attention of the embassy through a German attorney in Maylast, and, after various correspondence, intervention was made in their behalf (F. O. No. 328) on September 3, 1898. They had emigrated from Germany with their father in 1887, and had become duly naturalized American citizens in 1893 and 1895, respectively. On account of failure to present themselves for military service, they had been sentenced to pay fines of 200 marks each. Nothing having been heard of the case, the attention of the foreign office was again called to it on December 23 (F. O. No. 395), and soon after, on January 11, 1899, a note was received in which it was stated that the fines had been remitted, and the names of the brothers taken from the military rolls at Schwerin. It is understood that the brothers live in Indiana, and have not visited Germany since their emigration.

2. Julius Surmann's case was also brought to the embassy's attention by an attorney (Mr. C. Staser, of Ritzville, Wash.), who stated that his client had emigrated with his father from Germany in 1888, and, as a minor child residing with his father, had become an American citizen through the latter's naturalization in 1894. In 1897, Surmann had returned to Germany, and subsequently he had been impressed into Prussian military service. After certain preliminary correspondence the embassy made intervention looking to the discharge of Surmann from the service (F. O. No. 355) on October 29, 1898, and again (F. O. No. 395) on December 23. On January 17, 1899, the foreign office replied that Surmann, upon his own request, had become a Prussian subject in 1897, and that consequently military service followed as a matter of course. This information was at once communicated to Mr. Staser, from whom nothing has since been heard.

3. Wilhelm Adolph Kanczor was born in Germany, but when about 3 years of age was taken to the United States by his parents, where he had subsequently become

naturalized as a citizen. During the summer of 1898 he returned to Germany with an intention to remain for about two years and to learn the trade of brickmaking. He had lived in the United States for about nineteen years. On October 28, 1898, the embassy learned that there was danger of his being impressed into military service at Myslowitz, and the same day intervention (F. O. No. 354) was made in his behalf. Intervention was repeated verbally at the foreign office on November 17, nothing having been heard of the case in the meantime, and under date of the 23d of the same month the embassy was informed that the foreign office had taken action to expedite a decision. Under date of January 25, 1899, the embassy was eventually informed that Kanczor had been recognized as an American citizen and would not be impressed into military service. This information was at once communicated to Kanczor at Myslowitz, and no further complaint has been received from him.

4. Emile Bertrand wrote from Paris under date of December 27, 1898, informing the embassy of his desire to visit his former home in Alsace, which he had left more than twenty years before, when about 17 years of age. The embassy replied, advising him how to make a request for the desired permission and promising to give such request, when made, its support. After again hearing from him, the embassy, on January 11 last, addressed a note (F. O. No. 411) to the imperial foreign office requesting that early and favorable action be taken upon the petition sent by Bertrand (of whose American citizenship the embassy had become convinced) to the Statthalter at Strassburg. Under date of January 21 Bertrand informed the embassy that he had received a favorable answer, and this information was subsequently confirmed by a note from the foreign office dated January 27, in which it was stated that permission had been granted him to spend two weeks in Bischweiler, Alsace, at any time before April 1, 1899. Bertrand is understood to have at once availed himself of this permission, which was all that he wanted, and to have returned to the United States.

5. Georg Kübler applied to the embassy from New York, under date of September 21, 1898, inclosing the certificate of his American naturalization (which had been authenticated by the German consul-general in New York) in the court of common pleas, New York City, October 14, 1887, and requesting that appropriate steps be taken to effect the removal of his name from the military lists, and the release of certain property which was said to have been attached on account of his failure to perform military service. Kübler was a native of the Kingdom of Wurttemberg. The embassy at once made intervention in his behalf (F. O. No. 339, of October 1, 1898), and a few days later received a note from the foreign office, dated October 11, in which the naturalization certificate was returned, with a statement that the foreign office would gladly take appropriate steps in the matter if the embassy would authenticate the certificate in question, the authentication of the German consulate not being sufficient for the Wurttemberg Government. The certificate was then returned to Kübler, and subsequently, after it had been authenticated by the secretary of state of the State of New York and the Secretary of State of the United States, was authenticated by the embassy and again sent to the foreign office on December 9, with a request that a speedy settlement of the case be effected. Under date of February 14 the embassy was eventually informed that Kübler had been recognized as an American citizen and his property released.

6. John A. Walz applied to the embassy in person on November 30, 1898, submitting evidence of the facts that his father had emigrated from Germany to the United States in 1849, and had duly become naturalized as a citizen in 1854. The father had returned to Germany in 1868, and since that time, with the exception of a few visits to America, he had resided in Wurttemberg, where he had again become a subject of the king in the summer of 1898. John Walz had been born in Wurttemberg in 1871, and had remained in that country as a boy until 1889, when he informed the local authorities that he intended going to America, and inquired as to his military liabilities. He was at that time told that he was an American citizen and not liable to military service. In the United States he was recognized as an American citizen through the naturalization of his father, and civil rights were granted him in the several places in which he resided, and a passport was issued to him by the Department of State in June, 1897. Having obtained a fellowship in Harvard University, Mr. Walz had come abroad, and since October 25 had been residing in Berlin and studying at the local university, where he desired to remain until next summer. A few days before his call at the embassy he had been summoned before the local authorities, and upon presenting himself had been informed that he was considered a German subject and was liable for military service. The embassy at once called the attention of the foreign office to the case (F. O. No. 378) to the end that he be recognized as an American citizen and allowed to continue his studies without moles-

tation, and no answer being received—although in the meantime Walz was not troubled—it addressed the foreign office again in regard to the case on December 23 (F. O. No. 395). Under date of February 17, 1899, the embassy was ultimately informed that Walz would be allowed to remain in Berlin without molestation until the 1st of next October. Before that time he expects to return to America to assume his position at Harvard.

7. Herman (Heinrich) Lüning's was brought to the attention of the embassy by the American consul at Bremen in a letter which was received on December 29, 1898, and the same day intervention (F. O. No. 401) was made. Lüning was born at Rotenburg in 1866 and emigrated in 1883 to the United States, where he duly became naturalized as a citizen at Brooklyn, N. Y., in 1893. While on a visit to his former home he had—although he and his infant child were under the doctor's care—been ordered by the Prussian authorities to leave the country before January 15, 1899. Under date of February 23 the embassy was informed by the foreign office that permission had been granted him to remain at Rothenburg until the 1st of next June. This information was communicated to Lüning through Consul Lange, and nothing further has been heard from the case.

8. Anton Frankfurter (Frankforter) brought his case to the attention of the embassy in a letter from Chicago, which was received on September 5, 1898, and the same day intervention was made in his behalf. Frankfurter had been born in Breslau in 1866, and had emigrated to the United States in 1881, becoming naturalized as a citizen in due course of time. In 1898 he had returned to Germany on a visit, and while sojourning at his former home was compelled to pay, under protest and in order to avoid arrest, a fine amounting, with costs, to 201 marks. No reply having been received to its first note, the embassy again referred to the case (F. O. No. 395) on December 23, and subsequently, under date of March 16, 1899, it was informed that an order had been issued to refund to Frankfurter the money which had been paid by him.

9. Ernst W. Jacobi called at the embassy on February 13, 1899, and exhibited an order from the local president of police to leave Prussian territory within four weeks from February 8. He at the same time stated that he was born in Hanover in 1862, and had emigrated to the United States in 1882, and produced evidence of his naturalization at Philadelphia in 1888. He returned to Germany in January, 1897, and since that time had been engaged in the restaurant business in Berlin. Although Mr. Jacobi's intention had apparently been to remain permanently in Berlin, it was thought proper to make intervention in his behalf (F. O. No. 436), as no reason had been given for his expulsion, and as his obedience of the order in question would have involved considerable pecuniary loss. Under date of March 16 the embassy was informed by the foreign office that in consideration of its intervention Mr. Jacobi would be allowed to remain in Prussia until October 1, 1899, the date fixed by him as that before which he could satisfactorily arrange his business matters.

10. Adolph Koppel wrote to the embassy from New York, submitting evidence of his American citizenship (State Department passport No. 12109, of February 19, 1898), and stating that he had been expelled from Prussia in January, 1897, for reasons which were unknown to him. He asked the good offices of the embassy to obtain permission for him to return on a visit to Germany and to remain about a year from June next, and on February 1, 1898, the embassy addressed the foreign office (F. O. No. 423) in his behalf. Under date of March 18 a reply to its note was received in which it was stated that the Prussian Government declined to grant permission for Koppel to return, as he had been expelled because he, together with his mother and other members of his family, had been charged with keeping a house of ill fame. This information was communicated to Koppel, who was at the same time informed that under the circumstances the embassy must decline to take any further action in his behalf.

11. George Cohen called at the embassy on March 8, 1899, exhibiting at the same time passport No. 5010, which had been issued him by the Department of State on September 9, 1898, and stated that he had been ordered, under date of the 4th, to leave Prussian territory within one week. He further stated that he was born in Posen in 1877, and when about 16 years of age had emigrated to the United States, where he duly became naturalized as a citizen. He had returned to Germany on a visit to his mother, and desired to be allowed to remain in Berlin until the 1st of April. The embassy at once addressed the foreign office in the matter (F. O. No. 451), and under date of March 30 a reply to its note was received in which it was stated that the Prussian Government had granted permission for Cohen to remain in Prussia until March 31. As nothing had been heard from Cohen since his call, it is to be presumed that he was not further molested.



## DIPLOMATIC IMMUNITIES.

*Mr. Jackson to Mr. Hay.*

No. 939.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 5, 1899.*

SIR: I have the honor to bring the following case to the attention of the Department, as, although the decision therein is in strict accordance with German precedent, it may not be without interest.

There was in the employ of the Spanish ambassador in this city a servant of French nationality, who was charged with assaulting another servant who was German. So long as the Frenchman remained in the ambassador's service it was held that he was not subject to German jurisdiction, and no proceedings were taken against him. On his discharge from service, however, he was arrested and brought before a local court. Here the plea was made that as the assault was committed in a foreign embassy the principle of "extritoriality" was involved and the local courts had no jurisdiction. It was held, however, that the courts did have jurisdiction, and proceedings leading to the punishment of the French servant have been taken accordingly.

The precedent followed in this case is the decision of the II Strafsenat (criminal division) of the imperial supreme court at Leipzig, November 26, 1880, which is reported in volume 3 (1881) of the "Entscheidungen des Reichsgerichts in Strafsachen." In the case then treated, which was probably fully reported to the Department at the time, the question was whether a naturalized American citizen of German origin could be punished by the German authorities for making a false affidavit before a secretary (Mr. Chapman Coleman) of the then American legation in this city. In this case it was decided that "the house of the envoy accredited to the domestic government was not to be considered foreign territory, and that consequently a crime committed in such a house must be considered as having been committed in the country itself, and the criminal, even when a foreigner, as under German jurisdiction, as, although the house of an envoy is in accordance with international law extritorial, this fiction in modern interpretation goes no further than is necessary to insure the personal inviolability of the envoy and his suite."

I have, etc.,

JOHN B. JACKSON.

## EXTRADITIONS FROM CUBA.

*Mr. Hay to Mr. von Mumm.*DEPARTMENT OF STATE,  
*Washington, October 25, 1899.*

DEAR MR. VON MUMM: The Attorney-General advises me that on the 10th instant a verbal request was preferred to him, on your behalf, for information relative to the practice or procedure as to the extradition and return to this country of criminals escaping therefrom to Cuba, to which he then made reply that no case has been presented to the Department of Justice raising that question; and that on the 19th

instant the subject was again presented to him by a messenger from your legation to whom Mr. Griggs said, repeating his statement of the fact that no such case had come before his Department, that his official functions did not permit him to advise the embassy upon the subject except through the Department of State, and then only upon a question actually arising in the Department of State.

At the same time, it has appeared proper to Mr. Griggs to state, and he desires me to repeat it to you, that in the recent case of the return to Cuba from New Orleans of a person committing an offense in Habana, he took the ground that in view of our military occupation and government in Cuba extradition was not really involved, and that the criminal should be returned upon the proper requisition of our military authorities in Cuba; and he adds that he can perceive no reason to doubt that the same view and practice would apply in the reverse case to a criminal going to Cuba from the United States, should such a case arise.

I am, etc.,

JOHN HAY.

## GREAT BRITAIN.

### MODUS VIVENDI FIXING A PROVISIONAL BOUNDARY LINE BETWEEN THE TERRITORY OF ALASKA AND THE DOMINION OF CANADA ABOUT THE HEAD OF LYNN CANAL.

BRITISH EMBASSY,  
*Washington, April 18, 1898.*

[Memorandum.]

#### ALASKA BOUNDARY.

In view of the wide divergence of views existing on the subject of the Alaska-Canadian Boundary, the Dominion Government fear that the suggestion to proceed with the demarcation under the convention of 1892 would lead to no result. They are however prepared to agree that a provisional line should be fixed, without prejudice to the claims of either party, at the watershed at the first summit north of Dyea. Such provisional boundary would be at a distance from the coast of considerably more than 10 leagues.

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*Mr. Day to Sir Julian Pauncefote.*

No. 1006.)

DEPARTMENT OF STATE,  
*Washington, May 9, 1898.*

EXCELLENCY: Referring to your memorandum of April 18 ultimo, regarding the marking of the boundary line between Alaska and the British possessions, I have the honor to inform you that this Government consents to the temporary demarcation of this boundary in the region about the head of Lynn Canal, on the general plan suggested in your memorandum—namely, that the boundary line shall follow the summit of the watershed surrounding the head of Lynn Canal.

To accomplish this it is proposed that in at least three localities on this watershed—namely, at the summit of White Pass, at the summit of Chilkoot Pass, and at the summit of Chilkat Pass—suitable monuments be placed to mark definite points in the boundary thus temporarily defined. It is suggested that these monuments be placed by two commissioners, one chosen on the part of the United States and the other on the part of Her Majesty's Government.

In consenting to the temporary marking of the boundary line in the method just indicated, this Government desires it to be distinctly understood on the part of both Governments that this arrangement is not to be construed as affecting in any manner rights under existing treaties for the ultimate consideration and establishment of the boundary line in question.

I have, etc.,

WILLIAM R. DAY.

*Sir Julian Pauncefote to Mr. Day.*

BRITISH EMBASSY,

NEW LONDON, CONN., *July 20, 1898.*

SIR: With reference to the proposal for the adoption of a provisional line of determination of the Alaska boundary in the region of the Lynn Canal without prejudice to the rights of either Government, I have the honor to inform you that I did not fail immediately on receipt of your note number 1006, of the 9th of May last, to transmit copy of it to the Governor-General of Canada, who has since been in communication with Her Majesty's Government on the subject.

It appears that the arrangement which the Dominion government have had in contemplation is that pending the settlement of the boundary question, and as to the territory traversed by the mountain passes which lead from Taiya Inlet, each Government should remain in possession of the territory now occupied by it, and that for this purpose a line should be drawn at the summit of the passes or the watershed between the rivers flowing into Taiya Inlet and the tributaries of the Yukon River. This would be satisfactory to them.

They observe, however, that while your note above referred to places the provisional line at Taiya summit, it proposes to apply the principle of the watershed range between rivers flowing into the Lynn Canal and rivers flowing into the Yukon River to the route commonly called the Dalton Trail, which leads from the head of the Chilkat Inlet.

The effect of this would be to place the boundary line much farther inland than the Canadian government consider reasonable under the circumstances.

In view of this objection on the part of the Canadian government, I have been instructed by the Marquis of Salisbury, without going further into the merits of the case at present, to propose to you that the Canadian and United States officers, respectively stationed at the head of the Lynn Canal, should be directed not to advance beyond the positions already occupied by them, and that the provisional boundary line should be referred to the joint commission at Quebec for adjustment.

Hoping that the above suggestion will meet with the approval and concurrence of your Government,

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Hay to Sir Julian Pauncefote.*

No. 1381.]

DEPARTMENT OF STATE,

*Washington, March 20, 1899.*

EXCELLENCY: Recalling the recent interviews which I have had the honor to hold with you respecting the desirability of establishing a provisional boundary line between the territorial possessions of the United States and Canada in the vicinity of Lynn Canal, and referring to the notes exchanged between this Department and your embassy during the past year, to wit, your promemoria of April 18, the note of Secretary Day of May 9, and your reply thereto of July 20, I feel warranted in submitting to you the following proposition:

It shall be agreed between the two Governments that the boundary line between Canada and the Territory of Alaska in the region above

the head of Lynn Canal shall be provisionally fixed, without prejudice to the claims of either party in the permanent adjustment of the international boundary, at the watershed on the summit of White and Chilkoot passes, and at a point 30 marine miles from Pyramid Harbor on the Chilkat Pass and otherwise known as the Dalton Trail; and the two Governments further agree that the respective customs outposts shall not be advanced beyond the points indicated. Steps shall be taken without delay to establish by international cooperation a provisional boundary monument at each of the three points herein established.

An acknowledgment from you accepting this understanding, which embodies the proposals made in your communications of last year, and which, it appears, had been virtually observed as to the passes above Lynn Canal since July of last year, would accomplish the desired result by exchange of notes.

I have, etc.,

JOHN HAY.

*Sir Julian Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
*Washington, March 22, 1899.*

SIR: I have the honor to acknowledge the receipt of your note No. 1381, of March 20, 1899, containing proposals for establishing a provisional boundary line between Canada and the Territory of Alaska in the region about the head of Lynn Canal without prejudice to the claims of either party in the permanent adjustment of the frontier.

I lost no time in communicating a copy of this note to Her Majesty's Government and to the Governor-General of Canada.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,  
*Washington, April 29, 1899.*

SIR: As Sir Julian Pauncefote had the honor to inform you on the 22d ultimo, a copy of your note No. 1381, of the 20th of that month, was communicated to Her Majesty's Government and to the Governor-General of Canada.

That note contained a proposal for establishing a provisional line between Canada and the Territory of Alaska in the region about the head of Lynn Canal, without prejudice to the claims of either party in the permanent adjustment of the frontier.

By direction of the Marquis of Salisbury, I have the honor to transmit to you herewith copy of an approved minute of the Canadian privy council, dated the 30th ultimo, which Sir Julian Pauncefote received from the Governor-General of Canada, containing the expression of the views of the Dominion Government upon the proposals put forward by you.

I have, etc.,

REGINALD TOWER.

[Inclosure—Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 30th March, 1899.]

The committee of the privy council have had under consideration a dispatch from Mr. Hay, United States Secretary of State, dated 20th March, 1899, to Her Majesty's ambassador to the United States, suggesting the establishment of a provisional boundary line between the territorial possessions of the United States and Canada in the vicinity of Lynn Canal, together with the letter dated 21st March, 1899, from Her Majesty's ambassador to the Marquis of Salisbury inclosed, and the cable dispatch of 27th March, 1899, from the secretary of state for the colonies asking for the views of Your Excellency's advisers upon said subject.

The minister of the interior, to whom said matter was referred, desires to call attention to the fact that the provisional boundary line, which is suggested in the note of Mr. Hay on the White and Chilcoot passes, has been accepted by the Government of the United States and the Government of Canada as provisional about two years ago.

The minister, with regard to the provisional delimitation of the boundary on the Chilkat Pass, can not agree to the proposition that it should be placed at the distance of 30 miles from the shore. He contends that it should be placed at the crest of the mountains nearest to the coast. But while he, the minister, thinks it quite advisable that the line on the Chilkat Pass should be provisionally established, he represents that at the same time, and concurrently, the United States Government should agree to have the whole line between Alaska and Canada from Prince of Wales Island to Mount St. Elias determined by arbitration.

The minister further states that this assent to a provisional line is not in any way to be construed as a deviation from the contention of Canada that the boundary line by the terms of the treaty should pass at the extreme entrance of the Lynn Canal.

The committee concur in the foregoing report and advise that Your Excellency do communicate the sense of this minute to the Most Honorable the Marquis of Salisbury, and to Her Majesty's ambassador to the United States.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. MCGEE,  
*Clerk of the Privy Council.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, July 24, 1899.*

The Secretary of State, at the invitation of the British Government, has indicated on the accompanying map what is in his opinion the best line for a *modus vivendi* in the region of the Klehini River, but as this line diverges a little from that formerly suggested by the Secretary of State he feels a word of explanation is required.

The Secretary of State proposed the junction of the Chilkat and Klehini rivers as a convenient point for a temporary dividing line between the American and British jurisdictions, pending the negotiations between these two Governments as to the permanent boundary; and, as the thoroughfare through that region is the Dalton trail, he thought it expedient to mark the point on that trail where it crosses the river. The British Government has shown with great force that this latter point was too vague, and that the bank of the river from its mouth to where it is crossed by the trail was almost impossible to define, owing to the shifting of the channel and the changes in its course. They therefore proposed a line across the valley from certain mountains lying to the southwest through the junction of the Chilkat and the Klehini to the mountains on the northeast; but this threw under British jurisdiction a large number of Americans who are at work along the banks of Porcupine Creek, from whom it was not available for the American Government to withdraw its protection, and in whose interest this Government has been constantly acting.

Mr. Tower, by direction of his Government, now asks that the Secretary of State shall indicate on the accompanying map the lines which in the judgment of the American Government will be most appropriate for the purpose designed. There is no line to the south of the Klehini but will violate the very intention of the entire negotiation by placing a large number of Americans under Canadian jurisdiction. The line of the river Klehini is shown by the British and Canadian representation to be difficult, if not wholly impracticable to define, an opinion in which the Secretary of State, after fuller information and more careful study of the facts, is inclined to agree. There is, therefore, no other alternative than to take the most convenient series of hills on the north of the Klehini and draw the line through them, and through the junction of the Chilkat and Klehini, and thence to the range on the east.

It is true that this line lies a short distance north of the one formerly suggested by the Secretary of State. If this fact presents an insuperable objection to the acceptance of the line by the British Government, the Secretary of State will not insist upon it, but will fall back to the river, and make the best of that inconvenient and unsatisfactory line; providing, in that case, that the Americans on the Porcupine Creek shall have the means of free ingress and egress by crossing and recrossing the river. But, in view of the fact that there are many Americans both north and south of the river, and, as far as is known, no British subjects south of the line now indicated on the map, it is hoped that it may be considered convenient by Her Majesty's Government to adopt this line as a temporary arrangement, without prejudice to the claims of either Government.

In any case the Secretary of State renews his confident hope that whatever arrangement is made the citizens or subjects of either power who may thereby be found in the jurisdiction of the other may have the same rights and privileges which they now enjoy.

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*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,  
Newport, R. I., August 27, 1899.

SIR: I had the honor to receive your note, No. 1529, dated the 3d, on the 6th instant, and immediately brought its contents to the knowledge of the Marquis of Salisbury by telegraph, specifying the alternative proposals put forward by you for a provisional boundary line in Alaska, viz:

(1) The line to be drawn from the peak west of Porcupine Creek marked 6500, across the Klehini River to the peak 5025, and thence to the junction of the Chilkat and Klehini rivers.

(2) The line to be drawn from 6500 in the direction of 5025, but to stop at the Klehini and follow its course to its junction with the Chilkat; thence to the summit of the peak 5490.

In explaining the above I reported your statement that the former proposal would still leave many Americans under Canadian jurisdiction in the more northerly regions of the trail.

I am now in receipt of telegraphic instructions from the Marquis of

Salisbury to communicate to you the reply received from the Canadian government, to the following effect:

The government of the Dominion of Canada will agree to the second line of the proposal, but suggest a slight modification.

Instead of following the course of the Klehini River, it is proposed that the line should follow the high bank of the river. This would appear to obviate many of the objections which have been previously raised to the river being taken as the boundary, and it the more necessary as the river flows through many channels over a bed of gravel, sometimes filling the whole bed and sometimes shrunk to the dimensions of a small stream. On account of its gravelly bottom the river course is shifting from year to year.

In submitting to you the above slight modification of the second alternative proposed by your note, No. 1529, I am directed to express the hope of Her Majesty's Government that it may now be possible to come to a settlement of the provisional boundary question as above indicated, marking the line upon the ground by the erection of monuments.

I have, etc.,

REGINALD TOWER.

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*Mr. Hay to Mr. Tower.*

No. 1552.]

DEPARTMENT OF STATE,  
*Washington, September 6, 1899.*

SIR: I have had the honor to receive your note of the 27th ultimo, by which you inform me that, having telegraphed to the Marquis of Salisbury the alternative proposals for a provisional boundary in that part of Alaska circumjacent to Lynn Canal, you are now in receipt of telegraphic instructions from his lordship to communicate to me the reply received from the Canadian government to the effect that the government of the Dominion of Canada will agree to the second of the lines proposed, but suggest a slight modification in that, instead of following the course of the Klehini River it is proposed that the line should follow "the high bank of the river." You explain that this change is sought in order to obviate the difficulties which have been heretofore brought forward because of the broken nature of the Klehini channel and the variable volume and course of the stream; and in conclusion you express the hope of Her Majesty's Government that it may now be possible to come to a settlement of the provisional boundary question, as above indicated, marking the line upon the ground by the erection of monuments.

The second of the alternatives proposed in my note of August 3, was to draw the line from the peak marked 6500—on sheet No. 10 of the map of the United States commission, December 31, 1895—in the direction of the peak numbered 5025, but to stop at the Klehini and follow its course to the junction of the Chilkat, as proposed by us several weeks before the 3d of August.

From that point toward the summit of the peak numbered 5490 we have been in constant agreement. Your recital of the second alternative accords with this definition.

With these data, and incorporating the details as to which agreement exists, with inclusion of the modification now proposed by the Dominion



government, our agreement as to the main points of the provisional boundary line in the territory circumjacent to the head of Lynn Canal is reducible to the following terms:

It shall be agreed between the Governments of the United States and Great Britain that the boundary line between Canada and the Territory of Alaska in the region about the head of Lynn Canal shall be provisionally fixed without prejudice to the claims of either party in the permanent adjustment of the international boundary—

In the region of the Dalton trail, a line beginning at the peak west of Porcupine Creek, marked on the map No. 10 of the United States commission December 31, 1895, and on sheet No. 5, Department of the Interior, Ottawa, March, 1898, with the number 6500; thence running to the Klehini River in the direction of the peak north of that river marked 5020 on the aforesaid United States map, and 5025 on the aforesaid Canadian map; thence following the high bank of the Klehini River to the junction thereof with the Chilkat River, a mile and a half, more or less, north of Klukwan, provided that this line shall be so drawn as to permit the free ingress and egress of American citizens to and from the valley of the Porcupine Creek; and from said junction to the summit of the peak east of the Chilkat River marked on the aforesaid maps 5490.

On the Dyea and Skagway trails, the summits of the Chilkoot and White passes. It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either power found by this arrangement within the temporary jurisdiction of the other shall suffer no diminution of the rights and privileges which they now enjoy.

The Government of the United States will at once appoint commissioners, in conjunction with commissioners to be named by the Government of her Britannic Majesty, to mark the temporary line thus agreed upon by the erection of appropriate monuments.

I am unable from any maps or data at my command to ascertain the significance of the phrase "the high bank" of the Klehini River, which is employed in formulating the modifications of my second alternative which is proposed by the Dominion government. I may, however, rightly assume from the antecedent negotiations that the purpose is to draw a line free from the objections raised to one following the unstable bed of the Klehini River, and that this purpose is to be accomplished by setting the monuments at such convenient points on the bank of that river as shall secure them from destruction by flood or by the caving in of the bank. Without seeking, however, to establish these points now upon conjectural basis, the proposed modification is accepted in the confidence that the fixation of the provisional boundary line in that quarter can and will be effected with due and equal consideration for the respective interests concerned.

I have, etc.,

JOHN HAY.

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*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,  
Newport, R. I., September 7, 1899.

SIR: I have the honor to acknowledge the receipt of your note No. 1552, of the 6th instant, informing me of the acceptance by your Government of the modification proposed by Canada that the high bank of the river Klehini should be taken as the provisional boundary line, and that your Government will at once name commissioners, with those to be appointed by Her Britannic Majesty, to mark the temporary line thus agreed upon by the erection of appropriate monuments.

I have conveyed this gratifying intelligence to the Marquis of Salisbury this day.

I have, etc.,

REGINALD TOWER.

*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,  
*Newport, R. I., September 10, 1899.*

SIR: In communicating to my Government the contents of your note No. 1552, of the 6th instant, I called the attention of the Marquis of Salisbury to the statement contained therein of your inability, from any maps or data at your command, to ascertain the significance of the phrase "the high bank" of the Klehini River, which was employed in formulating the modification of your second alternative proposed for a provisional boundary line in that part of Alaska circumjacent to the Lynn Canal.

I have now received a reply by telegraph stating that, according to explanations furnished by the Canadian Government, the right, or southern bank, is meant.

I have accordingly the honor, by direction of Lord Salisbury, to inform you of the above, without delay, in order to remove any possible cause of future misunderstanding in the settlement of this question, which is so earnestly desired by Her Majesty's Government.

I have, etc.,

REGINALD TOWER.

*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,  
*Washington, October 13, 1899.*

SIR: I duly communicated to Her Majesty's principal secretary of state for foreign affairs your note No. 1552, of the 6th ultimo, relative to the provisional boundary between Alaska and the Dominion of Canada, and have now received a reply from the Marquis of Salisbury, submitting a modified form of agreement.

His Lordship states that the proviso in your proposal with regard to freedom of access to the valley of the Porcupine Creek would render it impossible to draw the provisional line of boundary without practically transferring both banks of the Klehini River to the American side, and the text of the agreement has therefore been amended in such a manner as to permit persons proceeding to and from Porcupine Creek to carry with them such goods and articles as they desire without being required to pay any customs duties, while the arrangement that the line should follow the high or right bank of the Klehini is retained.

By this means Her Majesty's Government confidently trust that the freedom of passage asked for by your Government is satisfactorily assured.

With regard to the alterations in the last paragraph of the agreement, I may state that, as the line is to be provisional it does not seem necessary to appoint commissioners for the purpose of erecting appropriate monuments. The officers on either side, who may be in the vicinity, can be intrusted with the work of erecting such temporary marks as may be deemed requisite.

With the above explanations I have now the honor to communicate to you the draft of the agreement, with the modifications suggested by

Her Majesty's Government being marked in red ink [underscored] and to state that, should it meet with your approval, I am authorized to sign without any delay.

I have, etc.,

REGINALD TOWER.

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[Inclosure.]

AGREEMENT AS TO PROVISIONAL BOUNDARY AT THE HEAD OF THE LYNN CANAL.

It shall be agreed between the Governments of the United States and that of Great Britain that the boundary line between Canada and the Territory of Alaska in the region about the head of the Lynn Canal shall be provisionally fixed without prejudice to the claims of either party in the permanent adjustment of the international boundary.

In the region of the Dalton Trail, a line beginning at the Peak west of Porcupine Creek, marked on the map No. 10 of the United States Commission, December 31, 1895, and on sheet No. 18 of the *British Commission, December 31, 1895*, with the number 6500; thence running to the Klehini River in the direction of the peak north of that river, marked 5020 on the aforesaid United States map and 5025 on the aforesaid *British* map; thence following the high or right bank of the said Klehini River to the junction thereof with the Chilkat River, a mile and a half, more or less, north of Klukwan: *Provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and subject to such reasonable regulations for the protection of the revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line, such goods and articles as they desire, without being required to pay any customs duties on such goods and articles; and from said junction to the summit of the peak east of the Chilkat River, marked on the aforesaid maps 5490.*

On the Dyea and Skagway trails the summits of the Chilkoot and White passes.

It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either Power found by this arrangement within the temporary jurisdiction of the other shall suffer no diminution of the rights and privileges which they now enjoy.

The Government of the United States will at once appoint *an officer or officers* in conjunction with *an officer or officers* to be named by the Government of Her Britannic Majesty to mark the temporary line agreed upon by the erection of *posts, stakes, or other appropriate temporary marks.*

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*Mr. Hay to Mr. Tower.*

No. 1589.]

DEPARTMENT OF STATE,  
Washington, October 20, 1899.

SIR: Your note of the 13th instant was duly received, in which you submit to me, under instructions from the Marquis of Salisbury, a modified form of agreement relative to a provisional boundary between the territory of Alaska and the Dominion of Canada in the region about the head of Lynn Canal.

I have given careful consideration to the modifications indicated in your note, and am prepared, on the part of the Government of the United States, to accept the same as a provisional agreement respecting the boundary in the localities stated. In examining the text of the proposed agreement inclosed with your note of the 13th instant, I have, however, noted some verbal changes which it seems desirable should be made and which in no wise affect the terms of the agreement. I there-

fore submit the following as the text of the agreement to be observed by the two Governments:

It is hereby agreed between the Governments of the United States and Great Britain that the boundary line between Canada and the Territory of Alaska in the region about the head of Lynn Canal shall be provisionally fixed as follows, without prejudice to the claims of either party in the permanent adjustment of the international boundary:

In the region of the Dalton Trail, a line beginning at the peak west of Porcupine Creek, marked on the map No. 10 of the United States commission December 31, 1895, and on sheet No. 18 of the British commission December 31, 1895, with the number 6500; thence running to the Klehini (or Klahela) River in the direction of the peak north of that river, marked 5020 on the aforesaid United States map, and 5025 on the aforesaid British map; thence following the high or right bank of the said Klehini River to the junction thereof with the Chilkat River, a mile and a half, more or less, north of Klukwan; provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line such goods and articles as they desire without being required to pay any customs duties on such goods and articles; and from said junction to the summit of the peak east of the Chilkat River, marked on the aforesaid map No. 10 of the United States commission with the number 5410, and on the map No. 17 of the aforesaid British commission with the number 5490.

On the Dyea and Skagway trails, the summits of the Chilkoot and White passes. It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.

The Government of the United States will at once appoint an officer or officers, in conjunction with an officer or officers to be named by the Government of Her Britannic Majesty, to mark the temporary line agreed upon by the erection of posts, stakes, or other appropriate temporary marks.

It shall be understood that the foregoing agreement is binding upon the two Governments from the date of your written acceptance of its terms.

I have, etc.,

JOHN HAY.

*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,  
Washington, October 20, 1899.

SIR: I have the honor to acknowledge the receipt of your note No. 1589 of the 20th instant, submitting the following as the text of the agreement to be observed by the two Governments as a provisional boundary between the Territory of Alaska and the Dominion of Canada in the region about the head of Lynn Canal:

It is hereby agreed between the Governments of the United States and of Great Britain that the boundary line between Canada and the Territory of Alaska in the region about the head of Lynn Canal shall be provisionally fixed as follows, without prejudice to the claims of either party in the permanent adjustment of the international boundary:

In the region of the Dalton Trail, a line beginning at the peak west of Porcupine Creek, marked on the map No. 10 of the United States commission, December 31, 1895, and on sheet No. 19 of the British commission, December 31, 1895, with the No. 6500; thence running to the Klehini (or Klahela) River in the direction of the peak north of that river, marked 5020 on the aforesaid United States map and 5025 on the aforesaid British map; thence following the high or right bank of the said

*should be sheet #18*

Klehini River to the junction thereof with the Chilkat River, a mile and a half, more or less, north of Klukwan—provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers, into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line such goods and articles as they desire without being required to pay any customs duties on such goods and articles; and from said junction to the summit of the peak east of the Chilkat River, marked on the aforesaid map No. 10 of the United States commission with the No. 5410 and on the map No. 17 of the aforesaid British commission with the No. 5490.

On the Dyea and Skagway trails, the summits of the Chilkoot and White passes.

It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.

The Government of the United States will at once appoint an officer or officers, in conjunction with an officer or officers to be named by the Government of Her Britannic Majesty, to mark the temporary line agreed upon by the erection of posts, stakes, or other appropriate temporary marks.

It shall be understood that the foregoing agreement is binding upon the two Governments from the date of this my written acceptance of its terms.

REGINALD TOWER.

I have, etc.,

MODUS VIVENDI BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, FIXING A PROVISIONAL BOUNDARY LINE BETWEEN THE TERRITORY OF ALASKA AND THE DOMINION OF CANADA ABOUT THE HEAD OF LYNN CANAL.

[Concluded by exchange of notes October 20, 1899, by John Hay, Secretary of State of the United States, and Reginald Tower, chargé d'affaires of Her Britannic Majesty at Washington.]

It is hereby agreed between the Governments of the United States and of Great Britain that the boundary line between Canada and the Territory of Alaska in the region about the head of Lynn Canal shall be provisionally fixed as follows, without prejudice to the claims of either party in the permanent adjustment of the international boundary:

In the region of the Dalton Trail, a line beginning at the peak west of Porcupine Creek, marked on the map No. 10 of the United States commission, December 31, 1895, and on sheet No. 18 of the British commission, December 31, 1895, with the number 6500; thence running to the Klehini (or Klaheela) River in the direction of the peak north of that river, marked 5020 on the aforesaid United States map and 5025 on the aforesaid British map; thence following the high or right bank of the said Klehini River to the junction thereof with the Chilkat River, a mile and a half, more or less, north of Klukwan—provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers, into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line such goods and articles as they desire, without being required to pay any customs duties on such goods and articles; and from said junction to the summit of the peak east of the Chilkat River, marked on the aforesaid map No. 10 of the United States commission with the number 5410 and on the map No. 17 of the aforesaid British commission with the number 5490.

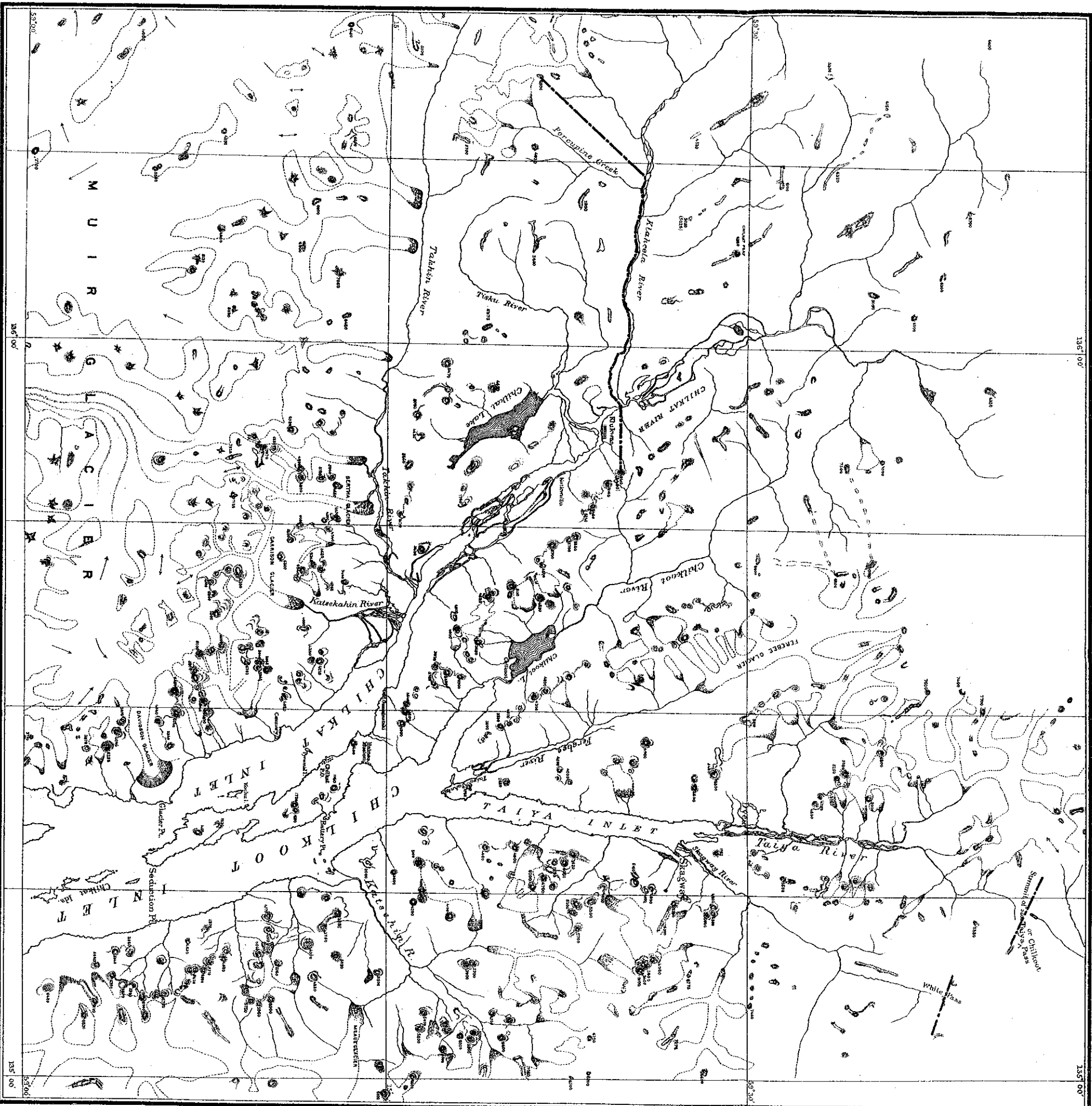
On the Dyea and Skagway trails, the summits of the Chilkoot and White passes.

It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.

Map to accompany the *Modus Vivendi*, concluded October 20, 1899  
between the United States and Great Britain, fixing a provisional  
boundary line between Canada and the Territory of Alaska, about  
the head of Lynn Canal.

Prepared in the Office of the U.S. Coast and Geodetic Survey, Treasury Department.

ANDREW B. GANNAM PHOTO-LITHO WASHINGTON, D.C.











The Government of the United States will at once appoint an officer or officers, in conjunction with an officer or officers to be named by the Government of Her Britannic Majesty, to mark the temporary line agreed upon by the erection of posts, stakes, or other appropriate temporary marks.

*Mr. Hay to the chairman of the committee of miners, Porcupine mining district, Alaska.*

DEPARTMENT OF STATE,  
*Washington, August 3, 1900.*

SIR: The President has referred to me, after acknowledgment in regular course, your letter of the 11th ultimo, with which was inclosed a protest of the miners of the Porcupine mining district of Alaska against the provisional demarcation of the boundary in the vicinity of the Klehini River, which has been recently made in virtue of the *modus vivendi* concluded on the 20th of October last.

The arguments and statements presented in the petition with great clearness were fully understood here, and the circumstances that the negotiation of a *modus* was prolonged for some two years before the agreement was reached was due to the insistence of this Government that no solution was admissible which should not recognize and guard all rights and privileges gained by the American miners and other citizens who had settled in the disputed territory. This position was assumed very early in the negotiation, after consultation with the representative Senators and Congressmen, especially from the Pacific and Northwestern States, and it was well understood that our demand that the American citizens who, by the operation of any provisional arrangement, might be found within the temporary jurisdiction of Great Britain should suffer no diminution of their existing rights was an essential condition from which no recession was possible. The other details of the arrangement were in like manner the subject of constant consultation with the best-informed representative authorities throughout the negotiation, and were generally and fully acquiesced in, with a clear realization of the fact that a settlement of the character sought to be reached was necessarily a temporary compromise, involving mutual concessions, although without prejudice to the complete establishment of the rights of either party in the eventual permanent adjustment of the treaty boundary.

I inclose for your information a copy of the *modus vivendi* of October 20, 1899. I beg you to observe:

First. That the arrangement is provisional merely and without prejudice to the claims of either party in the permanent adjustment of the international boundary.

Second. That the inconvenience of a provisional line crossing and recrossing the shifting waterway was foreseen and expressly provided for by the engagement "that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers (Klehini and Chilkat) into and across the territory on the Canadian side of the temporary line whenever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the revenue as the Canadian government may prescribe, to carry with them over such part or parts of the

trail between the said points as may lie on the Canadian side of the temporary line such goods and articles as they desire, without being required to pay customs duties on such goods and articles."

Thirdly (and most important in its relation to the grounds of your protest). That it is stipulated "that the citizens or subjects of either power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy."

The provisional arrangement so entered into by the United States and Great Britain was made public in October last, so that its provision became widely known to all parties interested, affording ample opportunity to forsee its effects when the officers of the two Governments should have completed the mechanical operation of marking the temporary line agreed upon by the erection of posts, stakes, or other appropriate temporary marks. To enable a full understanding in these particulars, the published copies of the *modus vivendi* were accompanied by a map, carefully prepared from the latest and most authentic sources. The arrangement and the map were printed in nearly all the newspapers at the time, constituting an abundant public notification. It would seem, therefore, that the recent action of the surveyors named by the two Governments in setting up the prescribed marks can not be deemed a surprise. Neither does their action involve any new procedure or compromise amounting to an alteration of the engagement entered into in October last. The surveyors had no discretionary powers as to the subject-matter of the boundary dispute, their sole function being to mark upon the surface of the ground the provisional line upon which the two Governments had reached a compromise for the time being.

The rights of the United States in the matter of the treaty boundary are absolutely intact, and their assertion in due time will be earnest and thorough. In the meantime this Government foregoes no part of its right and power to protect its citizens in the Porcupine Creek region, whether they be temporarily within American or British jurisdiction, in the full enjoyment of all rights and privileges which they had before the *modus* was concluded, and to see that their freedom of access and exit with their goods is not unreasonably impeded.

I am, sir, your obedient servant,

JOHN HAY.

#### TONNAGE TAX AT TRINIDAD AND TOBAGO.

*Mr. Day to Sir Julian Pouncefote.*

No. 1185.]

DEPARTMENT OF STATE,  
*Washington, September 16, 1898.*

EXCELLENCY: Referring to the proclamation of the President dated April 7, 1885, exempting from tonnage tax in the United States vessels entering from the island of Trinidad, British West Indies, on the ground that no duty was imposed as tonnage tax or as light money, and that no other equivalent tax on vessels of the United States was imposed at said island by the British Government, I have the honor to inquire whether the statement is correct which has been received

by the Treasury Department of the United States to the effect that a tonnage tax of 4 pence per ton was imposed on the American bark *Auburndale* at the time of her clearance for Washington, D. C., August 17, 1898, and that a similar tax is imposed on vessels entering at Trinidad?

I have, etc.,

WILLIAM R. DAY.

*Sir Julian Pouncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, November 7, 1898.

SIR: In reply to a note from Mr. Day of the 16th of September last, No. 1185, with regard to a tonnage tax levied at Trinidad, I have the honor to inform you that I am in receipt of a dispatch from the Marquis of Salisbury inclosing copies of the Trinidad ordinances Nos. I of 1896 and VII of 1898, under which the dues referred to are levied, and stating that they have been rendered necessary in order to provide for the interest and sinking fund of the loan which has been raised to meet the cost of the extensive works, still in course of execution, to improve the accommodation and lighting of the harbor of Port of Spain, Trinidad.

I am directed by his lordship to forward you the ordinances<sup>1</sup> in reply to the inquiry of your Government.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Hay to Sir Julian Pouncefote.*

No. 1255.]

DEPARTMENT OF STATE,  
Washington, November 14, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 7th instant, explaining the tax of 4 pence a ton levied on vessels arriving at or leaving the ports of Trinidad, British West Indies, and to inform you, in reply, that a copy thereof has been sent to the Secretary of the Treasury for his information.

I have, etc.,

JOHN HAY.

*Mr. Hay to Sir Julian Pouncefote.*

No. 1271.]

DEPARTMENT OF STATE,  
Washington, November 25, 1898.

EXCELLENCY: By a proclamation dated April 7, 1885, upon proof then appearing satisfactory that no tonnage and light-house dues or other equivalent tax were imposed upon vessels of the United States arriving at the island of Trinidad, British West Indies, the President of the United States, by virtue of the provisions of section 14 of the act of Congress approved June 26, 1884, "to remove certain burdens on the American merchant marine, and to encourage the American

<sup>1</sup> Printed copies sent to Treasury Department.

foreign carrying trade, and for other purposes," did declare and proclaim that from and after the 7th day of April, 1885, the suspension of the collection in ports of the United States upon vessels arriving from any port in the island of Trinidad "of so much of the duty at the rate of 3 cents per ton as may be in excess of the tonnage or light-house dues or other equivalent tax or taxes imposed on American vessels" by the government of the island of Trinidad.

And by a proclamation dated December 2, 1891, upon proof then appearing satisfactory that no tonnage or light-house dues or other equivalent tax or taxes were imposed upon vessels of the United States in the ports of the island of Tobago, one of the British West India Islands, the President of the United States, by virtue of the authority vested in him by section 11 of the act of Congress entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," approved June 19, 1886, did declare and proclaim that from and after the 2d day of December, 1891, the suspension of the collection of the whole of the tonnage duty imposed by said section of said act upon vessels entered in the ports of the United States from any of the ports of the island of Tobago.

It appearing from the copy of the ordinance of Trinidad and Tobago inclosed with your note of the 7th instant that from and after the 1st day of July, 1898, tonnage or equivalent taxes have been imposed upon American vessels entering the ports of those islands, and that, consequently, the conditions contingent upon which the proclamations above referred to were issued no longer exist, the President is constrained to issue his proclamations revoking said proclamations of April 7, 1885, and December 2, 1891.

Before doing so, however, it is deemed considerate and proper to bring the subject to your timely attention, as I now have the honor to do, in the possibility that the charges imposed by the ordinances of Trinidad and Tobago since the agreements of 1885 and 1891 may be found to be in conflict therewith and be rescinded in season to avoid the necessity of issuing revocatory proclamations, as the President is required by statute to do should the conditions under which the original proclamations were issued be ascertained to no longer exist.

I have, etc.,

JOHN HAY.

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*Sir Julian Pouncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, November 28, 1898.

SIR: I have the honor to acknowledge the receipt of your note No. 1271 of the 25th instant respecting the ordinances of Trinidad and Tobago, and the necessary action to be taken by the President, toward the revocation of the former proclamations, in consequence of the imposition of taxes imposed on American vessels by the government of the island of Trinidad.

I shall not fail to bring your courteous note to the immediate attention of Her Majesty's Government, and shall be pleased to convey to you the reply I may receive thereto.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Hay to Sir Julian Pouncefote.*

No. 1300.]

DEPARTMENT OF STATE,  
Washington, January 4, 1899.

EXCELLENCY: Referring to my note No. 1271 of November 25 last, in which by the reason of the ordinances of Trinidad and Tobago under which tonnage or equivalent duties are imposed on American vessels in the ports of those islands, the necessity was shown for the revocation of the President's proclamation of April 7, 1885, and December 2, 1891, suspending the collection of tonnage or equivalent taxes on vessels from ports in those islands, I have the honor to inform your excellency that an affidavit sworn to on December 28, 1898, by the captain of an American vessel, and filed with the Secretary of the Treasury, shows that tonnage taxes are still exacted of our vessels in Trinidad.

In my note referred to, I also stated, that, before preparing the revocatory proclamations, I deemed it considerate and proper to bring the subject to your attention in order that the charges imposed by the ordinances of Trinidad and Tobago since the agreements of 1885, and 1891 might be rescinded in season to avoid the necessity of issuing revocatory proclamations, as the President is required by statute to do, should the conditions under which the original proclamations were issued be ascertained to no longer exist.

In your note of November 28 last you stated that you would bring my note to the attention of Her Majesty's Government and should be pleased to convey to me the reply you might receive thereto.

I have the honor to inquire whether this reply might not be expedited.

I have, etc.,

JOHN HAY.

*Sir Julian Pouncefote to Mr. Hay.*

WASHINGTON, January 5, 1899.

SIR: I have the honor to acknowledge the receipt of your note No. 1300 of yesterday's date, and to inform you I shall at once forward it to the Marquis of Salisbury with a request for an early reply to the considerations set forth in your previous note concerning the duties imposed by the ordinances of Trinidad and Tobago.

I have, etc.,

JULIAN POUNCEFOTE.

*Sir Julian Pouncefote to Mr. Hay.*

WASHINGTON, February 14, 1899.

SIR: With reference to your notes, No. 1271 of November 25 last and No. 1300 of the 4th ultimo, on the subject of the ordinances of Trinidad and Tobago, I have the honor to inform you, by direction of the Marquis of Salisbury, that the dues referred to in your note are not tonnage dues on vessels.

They are in reality landing charges on merchandise imposed to defray the cost of harbor works. They are calculated on the tonnage

of the cargo actually landed in or shipped from the colony of Trinidad, this mode of collection having been found to be the most convenient.

It appears, therefore, questionable whether they are to be considered to be analogous to the dues referred to in the President's proclamation of April 7, 1885, and December 2, 1891.

The above considerations have been put forward by the governor of the colony of Trinidad, to whom the contents of your note No. 1271 were referred, and I am directed to communicate them to your Government.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Hay to Sir Julian Pauncefote.*

No. 1367.]

DEPARTMENT OF STATE,  
*Washington, March 2, 1899.*

EXCELLENCY: Answering your note of February 14, 1899, in further relation to the tonnage dues imposed upon cargo landed in the colonies of Trinidad and Tobago, I have the honor to advise you that upon reference thereof to the Secretary of the Treasury and reexamination of the matter that officer is clearly of the opinion that under the provisions of the ordinances in question certain charges are levied and paid by entering vessels which come, in fact, within the purview of the statute under which the President's proclamation of April 7, 1885, and December 2, 1891, were issued, and that it becomes necessary therefore for the President to issue new proclamations withdrawing the former ones whereby exemption from tonnage taxes was granted in favor of vessels entering the United States from ports or places in Trinidad or Tobago.

In view of the correspondence heretofore exchanged with you on the subject, I deem it appropriate to give you timely notice of this conclusion and of the proximate issue of the President's revocatory proclamations.

I have, etc.,

JOHN HAY.

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*Mr. Hay to Sir Julian Pauncefote.*

No. 1377.]

DEPARTMENT OF STATE,  
*Washington, March 13, 1899.*

EXCELLENCY: Referring to my note No. 1367, of the 2d instant, and to previous correspondence on the subject, I have the honor to inclose herewith copies of two proclamations this day issued by the President, revoking the proclamations of April 7, 1885, and December 2, 1891, which suspended the collection of tonnage dues on vessels arriving at ports of the United States from ports of the islands of Trinidad and Tobago, respectively.

Additional copies will be sent to you as soon as printed.

I have, etc.,

JOHN HAY.

BY THE PRESIDENT OF THE UNITED STATES.

## A PROCLAMATION.

Whereas by a proclamation of the President of the United States, dated April seventh, eighteen hundred and eighty-five, upon proof then appearing satisfactory that upon vessels of the United States arriving at the island of Trinidad, British West Indies, no due was imposed by the ton as tonnage or as light money and that no other equivalent tax on vessels of the United States was imposed at said island by the British Government, the President did declare and proclaim from and after the date of his said proclamation of April seventh, eighteen hundred and eighty-five, the suspension of the collection of the tonnage duties of three cents per ton, not to exceed fifteen cents per ton per annum, imposed upon vessels entered in ports of the United States from any of the ports of the island of Trinidad by section 14 of the act of Congress approved June twenty-six, eighteen hundred and eighty-four, entitled "An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes;"

And whereas it now appears upon satisfactory proof that tonnage or light-house dues, or a tax or taxes equivalent thereto, are in fact imposed upon American vessels and their cargoes entered in ports of the island of Trinidad higher and other than those imposed upon vessels from ports in the island of Trinidad or their cargoes entered in ports of the United States, so that said proclamation of April seventh, eighteen hundred and eighty-five, in its operation and effect contravenes the meaning and intent of section 14 of the act of Congress approved June twenty-six, eighteen hundred and eighty-four, as amended by section 11 of the act of Congress approved June nineteenth, eighteen hundred and eighty-six, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes:"

Now, therefore, I, William McKinley, President of the United States of America, by virtue of the aforesaid section 14 of the act of Congress approved June twenty-six, eighteen hundred and eighty-four, as amended by the aforesaid section 11 of the act approved June nineteenth, eighteen hundred and eighty-six, do hereby revoke the said proclamation of April seventh, eighteen hundred and eighty-five, suspending the collection of the whole of the duty of three cents per ton, not to exceed fifteen cents per ton per annum (which is imposed by the aforesaid sections of said acts), upon vessels entered in the ports of the United States from any of the ports of the island of Trinidad; this revocation of said proclamation to take effect on and after the date of this my proclamation.

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 thirteenth day of March, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

[SEAL.]

By the President:

JOHN HAY, *Secretary of State*.

WILLIAM MCKINLEY.

BY THE PRESIDENT OF THE UNITED STATES.

## A PROCLAMATION.

Whereas by a proclamation of the President of the United States, dated the second day of December, eighteen hundred and ninety-one, upon proof then appearing satisfactory that no tonnage or light-house dues or other equivalent tax or taxes were imposed upon American vessels entering the ports of the island of Tobago, one of the British West India Islands, and that vessels belonging to the United States of America and their cargoes were not required in the ports of the said island of Tobago to pay any fee or due of any kind or nature, or any import due higher than was payable by vessels from ports or places in the said island of Tobago, or their cargoes, in the United States, the President did therefore declare and proclaim, from and after the date of his said proclamation of December second, eighteen hundred and ninety-one, the suspension of the collection of the whole of the duty of three cents per ton, not to exceed fifteen cents per ton per annum, imposed upon vessels entered in the ports of the United States from any of the ports of the island of Tobago by section 11 of the act of Congress approved June nineteenth, eighteen hundred and



eighty-six, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes;"

And whereas the President did further declare and proclaim in his proclamation of December second, eighteen hundred and ninety-one, that the said suspension should continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes should be continued in the said ports of the island of Tobago, and no longer;

And whereas it now appears upon satisfactory proof that tonnage or light-house dues, or a tax or taxes equivalent thereto, are in fact imposed upon American vessels and their cargoes entered in ports of the island of Tobago higher and other than those imposed upon vessels from ports in the island of Tobago, or their cargoes, entered in ports of the United States, so that said proclamation of December second, eighteen hundred and ninety-one, in its operation and effect contravenes the meaning and intent of said section 11 of the act of Congress approved June nineteenth, eighteen hundred and eighty-six:

Now, therefore, I, William McKinley, President of the United States of America, by virtue of the aforesaid section 11 of the act aforesaid, as well as in pursuance of the terms of said proclamation itself, do hereby revoke the said proclamation of December second, eighteen hundred and ninety-one, suspending the collection of the whole of the duty of three cents per ton, not to exceed fifteen cents per ton per annum (which is imposed by the aforesaid section of said act), upon vessels entered in the ports of the United States from any of the ports of the island of Tobago; this revocation of said proclamation to take effect on and after the date of this my proclamation.

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 thirteenth day of March, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

[SEAL.]

By the President:

JOHN HAY, *Secretary of State.*

WILLIAM MCKINLEY.

### PASSPORTS NOT REQUIRED TO ENTER CUBA AND PORTO RICO.

*Sir Julian Pouncefote to Mr. Hay.*

WASHINGTON, *January 19, 1899.*

SIR: By direction of the Marquis of Salisbury, I have the honor to inquire whether passengers leaving Spain for Cuba and Porto Rico are required to provide themselves with passports.

I shall be greatly obliged if you will kindly furnish me with this information in order that I may reply to the telegraphic inquiry from Lord Salisbury.

I have, etc.,

JULIAN POUNCEFOTE.

*Mr. Hay to Sir Julian Pouncefote.*

No. 1323.]

DEPARTMENT OF STATE,  
*Washington, January 21, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 19th instant, in which inquiry is made as to whether passengers leaving Spain for Cuba and Porto Rico are required to provide themselves with passports.

In reply I beg to state that no passports are necessary for the entrance into Cuba and Porto Rico of passengers from Spain and elsewhere.

I have, etc.,

JOHN HAY.

**PASSPORTS, ISSUE OF, IN CASES WHERE APPLICANT FIXES NO  
DATE OF INTENDED RETURN TO UNITED STATES.**

*Mr. White to Mr. Hay.*

No. 660.]

AMERICAN EMBASSY,  
*London, January 27, 1899.*

SIR: I have the honor to inclose herewith a letter which I have received from Mr. Van Duzer, secretary of the American society, suggesting that Americans sojourning in foreign countries be not compelled, in order to obtain passports at our embassies and legations, to declare that it is their intention within two years to return to the United States and take up the duties of citizenship.

The paragraph in question in the declaration which all applicants for passports are compelled to sign does undoubtedly act occasionally as a bar to the issue of passports to those who are bona fide native-born Americans and who pay their taxes, often to a large amount, at home, but who, on account of business, health, or for some reason, are unable to remain long enough in the United States, for a period of time more or less protracted, to perform the duties of citizenship; and if any means could be found of enabling such persons to forego signing that clause it would be a boon to them.

I have, etc.

HENRY WHITE.

[Inclosure in No. 660.]

*Mr. Van Duzer to Mr. White.*

THE AMERICAN SOCIETY IN LONDON,  
114 SOUTHAMPTON Row, W. C.,  
*January 25, 1899.*

SIR: After a lengthy discussion to-day at an executive committee meeting of our society, I was requested to communicate with you in regard to the difficulties experienced by Americans sojourning abroad in obtaining a passport from our ambassadors, the difficulty arising from the clause appearing on the application form, to which all Americans applying for passports have to subscribe, namely, that it is their intention within two years to return to America and take up the duties of citizenship.

Mr. Frederick Alvah Miller, who has for some years resided in Torquay, and whose father was, until his death, a partner in the firm of H. B. Claflin & Co., of New York (and I may mention that Mr. Miller is a member of our society and has been known to me for more than twenty years, as well as to many other members of the society), is desirous of traveling abroad, and it is quite possible that he may, on account of Mrs. Miller's health, visit Egypt. While he is residing in England for the time being, he still is an American citizen, often visiting America for lengthened periods, and he can not consider that the regulations of the State Department should prevent him from receiving from his ambassador a passport, which document it is absolutely necessary for him to have before visiting Egypt. At the same time he can not honestly declare it to be his intention within two years to return to America and take up the duties of citizenship.

I may mention that this same difficulty arose in regard to myself some years ago, when the Hon. James G. Blaine was Secretary of State and Mr. Lincoln was our minister, and upon my communicating to Mr. Blaine the facts of the case Mr. Lincoln was advised to issue a passport to me.

The main object of this letter is, with all courtesy, to suggest to the State Department that in cases where Americans (identified and vouched for by well-known Americans) apply for passports the ambassador should be given some latitude, so that the difficulty now experienced by Mr. Miller—and at one time by myself—should be met by the ambassador being given the power to grant, in exceptional

circumstances, individual passports where the clause mentioned can not be honestly subscribed to. More especially does this seem necessary from the fact that a naturalized American citizen, not particular as to subscribing to said clause, could demand and would receive a passport which is denied to the honest native-born citizen.

Trusting that the State Department will take such action as will remedy this evil, which I am sure will be readily recognized by them,

I am, etc.,

F. C. VAN DUZER,  
Honorary Secretary,

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*Mr. Hay to Mr. White.*

No. 1095.]

DEPARTMENT OF STATE,  
Washington, February 23, 1899.

SIR: I have to acknowledge the receipt of your No. 660, of the 27th ultimo, inclosing a letter received by you from the secretary of the American society in London, suggesting that Americans sojourning in foreign countries be not compelled, in order to obtain passports, to declare their intention to return to the United States to take up the duties of citizenship within two years.

You observe that this requirement undoubtedly acts occasionally as a bar to the issue of passports to persons who are bona fide native-born Americans, and who pay their taxes, often to a large amount, in the United States, but who, on account of business, health, or other reasons, are unable to remain long in the United States to perform the duties of citizenship.

In reply I have to say that it has been the consistent ruling of the Department that the declaration by an applicant for a passport of intention to return to the United States does not require a statement of a fixed date of return, but the manifestation of a fixed intention to return within some reasonable time, which intention shall not be conspicuously negated by the circumstances of the foreign domicile of the claimant. The domicile of a person depends upon his intention, which is to be determined upon all the facts of the case. The Department is always well disposed toward those Americans, whether by birth or naturalization, who sojourn abroad in representation of American commercial interests.

I am, etc.,

JOHN HAY.

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#### DEATH OF LORD HERSCHELL.

*Mr. Hay to Sir Julian Pouncefote.*

No. 1368.]

DEPARTMENT OF STATE,  
Washington, March 2, 1899.

EXCELLENCY: I have the honor to communicate to you a copy of a resolution, adopted in the Senate of the United States March 1, 1899, expressing the sympathy of that body in the great loss which Her Majesty and the people of Great Britain have sustained by the death of Lord Herschell. I also send, for your information, copy of the letter addressed to me by the honorable the President of the Senate in communicating to me the resolution for conveyance through the proper channel.

I shall by to-morrow's mail send a copy of the resolution to the

United States ambassador in London, with instructions to communicate it to Lord Salisbury as an additional proof, if one were needed, of the high esteem in which Lord Herschell was held in this country.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Senate resolution, March 1, 1899.*

*Resolved*, That the Senate has heard with profound sensibility of the death of Lord Herschell, an eminent jurist and statesman of Great Britain, formerly lord high chancellor; a member of the United States and British joint high commission.

*Resolved*, That the President of the Senate is requested to convey to Her Majesty the Queen of Great Britain the sympathy of the Senate of the United States in the great loss which she and the people of Great Britain have sustained by the death of Lord Herschell.

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*Sir Julian Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, March 4, 1899.

DEAR MR. HAY: I called at the Department of State this afternoon to inform you of the reply which I had just received from Lord Salisbury to the kind offer of the President to convey the remains of the late Lord Herschell to England in a vessel of the United States Navy. Lord Salisbury telegraphs that, while Her Majesty's Government appreciate in the highest degree the respect shown to Lord Herschell's memory by that gracious proposal, they are unable to avail themselves of it, as arrangements have already been made with the family for the conveyance of the remains in a British ship of war.

Accordingly Her Majesty's ship *Talbot*, which has been detached for that service, will be at New York on Monday, and all preparations have been made by her commander for carrying out this mournful duty.

I am desired to convey to the President the cordial thanks of Her Majesty's Government.

I remain, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Hay to Sir Julian Pauncefote.*

[Personal.]

DEPARTMENT OF STATE,  
Washington, March 7, 1899.

DEAR SIR JULIAN: I beg to acknowledge the receipt of your courteous note of the 4th instant, in which you inform me that Her Majesty's Government, having made arrangements for sending the remains of the late Lord Herschell to England by a ship of war, it will not be in their power to accept the President's offer to send, as he so earnestly desired to do, an American man-of-war to perform the mournful office in question.

I remain, etc.,

JOHN HAY.

PROTECTION BY UNITED STATES MINISTER OF BRITISH  
INTERESTS IN BOLIVIA.

*Sir Julian Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
*Washington, April 15, 1899.*

SIR: I have the honor to inform you that I learn, from a telegram addressed to me by the Marquis of Salisbury, that, according to reports sent by the British vice-consul at Antofagasta, in Chile, a revolution has broken out in Bolivia, and that British lives and property are urgently in need of protection in that country.

As there are no British representatives, either diplomatic or consular, in Bolivia, I am instructed to inquire whether your Government would be so good as to instruct the United States minister there to protect British subjects and interests should such protection be necessary, and thereby confer on Her Majesty's Government a favor which would be much appreciated?

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Hay to Sir Julian Pauncefote.*

No. 1407.]

DEPARTMENT OF STATE,  
*Washington, April 16, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of yesterday's date, by which you inform me of the receipt by your Government of advices that a revolution has broken out in Bolivia and that British lives and property are urgently in need of protection in that country. In view of this and of the circumstance that there are no British representatives, either diplomatic or consular, in Bolivia you inquire, in pursuance of the telegraphed instructions of the Marquis of Salisbury, whether this Government will instruct the United States minister there to protect British subjects and interests should such protection be necessary.

Minister Bridgman's dispatches have advised me of the outbreak of a revolution in Bolivia about the middle of December last, and of the critical condition of American and other residents of that country, except in La Paz, which he reported as safe for foreigners up to February 10; but two ministers besides Mr. Bridgman—namely, the Brazilian and French representatives—had remained at La Paz, and they had joined in the protection of foreign interests as far as possible. The French minister has subsequently quitted La Paz. By a recent instruction sent by mail Mr. Bridgman was authorized, should such a course appear unavoidable, to assist American citizens to leave the country and to close the legation and to go to a place of safety on the neighboring coast.

On January 14 Mr. Bridgman reported that the telegraph line to the coast had been cut and the mails interrupted. Since that date but one telegram had been received from Mr. Bridgman, dispatched February 21 from Mollendo, Peru, to which point it is supposed to have been conveyed by an Indian runner.

Under these circumstances there appears to be small chance of direct communication with Mr. Bridgman. I have, however, adopted the safest and probably the speediest means of doing so, and have had pleasure in telegraphing to the United States consular agent at Molendo to forward to the minister at La Paz an instruction to protect British subjects and interests if necessary, and to notify the Bolivian authorities of his assumption of such protective office.

I have, etc.,

JOHN HAY.

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*Sir Julian Pauncefote to Mr. Hay.*

BRITISH EMBASSY.

*Washington, April 17, 1899.*

SIR: I have the honor to acknowledge the receipt of your note No. 1407, of yesterday's date, informing me that in accordance with the request of Her Majesty's Government, the United States minister in Bolivia has been instructed to undertake such protection of British interests in that country as may be rendered necessary by the recent revolution there and the absence of any British representative. I beg you to accept my thanks for the courtesy and promptitude of your actions in the matter, which I have had much pleasure in bringing to the knowledge of my Government by telegram.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Hay to Mr. Tower.*

No. 1460.]

DEPARTMENT OF STATE,

*Washington, May 26, 1899.*

SIR: Referring to previous correspondence relative to the course of the American minister at La Paz in protecting the interests of British subjects in Bolivia, and particularly with regard to your note of the 17th ultimo on the subject, I have the honor to inform you that the Department has received a dispatch from Mr. Bridgman, our minister at La Paz, reporting that at present there is no need of protection for British subjects in Bolivia as everything is quiet there.

I have, etc.,

JOHN HAY.

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*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,

*Washington, June 11, 1899.*

SIR: I have the honor to inform you that Her Majesty's Government have received reports from the British legation at Santiago, which show that it is desirable to provide further means of protection for the British subjects residing in Bolivia.

You were good enough to instruct the United States minister to protect British subjects in view of the revolution which was recently

in progress, and I am instructed by the Marquis of Salisbury to ask that the diplomatic and consular officers of the United States may continue to take charge of British interests until such time as arrangements can be made for the appointment of British consular officers for that purpose.

Her Majesty's Government are fully sensible of the assistance already rendered by the United States minister, and I am to express the hope that you will feel no difficulty in acceding to their present request.

I may add that my dispatch informing Lord Salisbury of the contents of your note No. 1460, of the 26th ultimo, which stated that everything was quiet in Bolivia, crossed the instructions which I have now the honor to communicate to you.

I have, etc.,

REGINALD TOWER.

*Mr. Hay to Lord Pauncefote.*

No. 1614.]

DEPARTMENT OF STATE,  
Washington, November 16, 1899.

EXCELLENCY: I have the honor to send you, for your information, and such action as you may deem appropriate, copy of a dispatch<sup>1</sup> just received from the United States minister at La Paz, in regard to the continued use of his good offices for the protection of British interests in Bolivia during the absence of a representative of Her Majesty's Government.

As respects the question of recognizing the new revolutionary Government of Bolivia, Mr. Bridgman has been instructed to enter into relations with it, when it shall appear to be established in control of the machinery of administration and in a position to fulfill its international obligations. At the date of the last dispatches from Mr. Bridgman, October 20, he was deferring action upon that instruction until the constitutional assembly should have convened. By a telegram, dated October 25, I have since learned that General Pando was on that day elected President of Bolivia, and I have little doubt that Mr. Bridgman will have soon carried out the instructions sent him in regard to the recognition of General Pando's government by the United States.

I have, etc.,

JOHN HAY.

*Lord Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, November 17, 1899.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, inclosing a dispatch from the United States minister in Bolivia on the subject of the necessity of some recognition on the part of Great Britain of the new government of General Pando in that country.

While thanking you for your courtesy in communicating this dispatch to me, I have the honor to inform you that I have referred the matter to the Marquis of Salisbury.

I have, etc.,

PAUNCEFOTE.

<sup>1</sup> Not printed.

## TAX ON FOREIGN INSURANCE COMPANIES IN THE UNITED STATES.

*Sir Julian Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, April 17, 1899.

SIR: I have received a dispatch from the Marquis of Salisbury calling attention to the fact that legislation has recently been enacted in certain States of the Union by which a discriminating tax has been imposed upon foreign fire insurance companies as against American companies.

Lord Salisbury has received a strong appeal on the subject from the "fire offices committee" in London, who point out that there are twenty-three British fire insurance companies represented in the United States, that not one of them has ever failed to meet its obligations in the United States, and after fifty years of trading, involving transactions of hundreds of millions of dollars, they would now, by the differential impost in question, be called on to pay not only more than the native companies, but more than the companies of other foreign nations, while in Great Britain and her colonies, American insurance companies are free to carry on their business on the same footing as British companies.

The inclosed letter from the resident manager of the Liverpool and States Insurance Society (whose chief offices are in New York) gives details as to the legislation enacted by the State of Iowa and that pending in the States of Missouri and Nebraska on this question, and dilates upon the unfavorable position on which the British companies are placed in these States, as regards not only American companies but those of other nations. The treaties in force between Belgium and Switzerland and the United States contain provisions which expressly forbid the levy from the subjects of those countries of any tax or duty higher than that paid by the citizens of the United States, and it is hardly credible that the Government of the United States can wish to place British subjects in a less advantageous position than other foreigners.

I have accordingly been instructed to request your serious consideration of this matter, with the view of averting, if necessary, by a treaty "ad hoc," the injury with which the British insurance companies are threatened by the discriminating legislation, of which they legitimately complain.

I have, etc.,

JULIAN PAUNCEFOTE.

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[Inclosure.]

*Mr. Eaton to Sir Julian Pauncefote.*

WASHINGTON, D. C., March 25, 1899.

[The Liverpool and London and States Insurance Company, chief office in United States, 45 William street, New York.]

SIR: I desire to call your attention to the fact that there are now pending in the legislatures of various States of the United States, and amongst others in the States



of Missouri and Nebraska, bills imposing a discriminating tax on the premiums of fire-insurance companies of foreign countries, and amongst them the companies of Great Britain are affected.

In the greater urgency of the case, your attention is particularly directed to the measures in the States above quoted, in which a distinction is sought to be made between companies of the other States and companies of other countries, the tax sought to be levied on the class last named being much higher.

The companies of Great Britain are and have been quite willing to be classed with companies of other States as to taxation, but they protest against action which is harmful to their interests, and which, by an expansion of the principle, might easily be carried to the point of prohibition.

Two years since the State of Iowa granted a law imposing a tax of 1 per cent on the premiums of companies of that State, 2½ per cent on the premiums of companies of the other States, and 3½ per cent on the premiums of companies of foreign countries. This tax was paid by British companies under protest, and litigation is now in progress as to the constitutionality of the act and as to other points, which may in course of time find its way to the United States Supreme Court for final action.

We feel unable to wait the result, with its attendant injury to our interests and possibly of danger to us in other States, which might in the interval be equivalent to expulsion, and we now respectfully ask your aid in an appeal to the treaty between the United States and Great Britain, claiming that whilst American fire and life companies enjoy and have enjoyed complete liberty of commerce in England reciprocal liberty of commerce is not enjoyed in this country by companies of Great Britain in the State of Iowa, and that restriction on this liberty is sought to be imposed by some other States, and amongst them the States of Missouri and Nebraska.

Your obedient servant,

H. W. EATON,  
*Resident Manager.*

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*Mr. Hay to Mr. Tower.*

No. 1422.]

DEPARTMENT OF STATE,  
*Washington, April 27, 1899.*

SIR: I have the honor to acknowledge the receipt of the note which the ambassador addressed to me on the 17th instant, in reference to legislation enacted or proposed to be enacted in various States of the United States unfavorable to foreign insurance companies. It is stated that the legislation already enacted by the State of Iowa and that pending in the States of Missouri and Nebraska is of a discriminatory character against British companies, not only in respect of American companies, but those of other nations.

The Department is not informed of the phraseology of the Iowa law or of the pending legislation in Missouri and Nebraska, but it assumes that Sir Julian's reference to discrimination against British companies in favor of companies of other foreign countries is not based on any express provisions of the said act and proposed acts, but is based rather on existing treaty stipulations of the United States with Belgium and Switzerland, which provide for the equality of treatment of their citizens in the matter of imposts.

Legislation such as that enacted by the State of Iowa is beyond the control of the executive branch of the General Government, and even did this legislation contravene any existing treaty between the United States and Great Britain (which is not made to appear), the remedy would lie in an appeal to the courts of law.

This Department had, some time previous to the receipt of Sir Julian's note, called the attention of the governors of the States in which the legislation in question is said to have been adopted, or to be pending, to the violation of certain treaty stipulations made by the

United States with other countries, and in some instances assurances have been given that the reports of such intended legislation are unfounded.

I have, etc.,

JOHN HAY.

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*Mr. Tower to Mr. Hay.*

WASHINGTON, April 28, 1899.

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, with reference to reports of legislation enacted or pending in certain States of the Union, and which would place British companies at a disadvantage in those States as compared with companies of other nationalities.

I note with satisfaction that assurances have, in some instances, been already given in response to representations from your Department that the reports in question are unfounded.

I have duly communicated a copy of your note to Her Majesty's principal secretary of state for foreign affairs.

I have, etc.,

REGINALD TOWER.

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*Mr. Tower to Mr. Hay.*

WASHINGTON, June 28, 1899.

SIR: By my note of the 28th of April, I had the honor to inform you that I had duly communicated to Her Majesty's principal secretary of state for foreign affairs a copy of your note (No. 1422) of the 27th of April, respecting the legislation passed in certain States of the Union unfavorable for foreign insurance companies.

I am now in receipt of a further dispatch from the Marquis of Salisbury on the subject, in which his lordship states that there was no question of the violation of any treaty existing between the United Kingdom and the United States, but that Her Majesty's Government merely desired to point out that British insurance companies would be placed at a disadvantage in certain States as compared with those of the United States themselves or even with those of certain foreign countries. Her Majesty's Government consequently suggested that an arrangement should be concluded between the two Governments which would prevent British companies from being subjected to unfavorable treatment by discriminatory legislation.

I am therefore instructed to renew the representations on this subject contained in Sir Julian Pauncefote's note of the 5th of April, and to again propose that a treaty "ad hoc" shall be concluded between the United Kingdom and the United States.

I have, etc.,

REGINALD TOWER.

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*Mr. Hay to Mr. Tower.*

No. 1509.]

DEPARTMENT OF STATE,  
Washington, July 19, 1899.

SIR: Referring to previous correspondence in regard to legislation enacted or proposed to be enacted in various States of the Union

unfavorable to foreign insurance companies, and with reference particularly to the suggested negotiation of a treaty between the United States and Great Britain on the subject, with the view of averting the injury with which British insurance companies are threatened by discriminatory legislation on the part of several of the United States, I have the honor to say that the negotiation of such treaty would probably be futile on account of the many difficulties and obstacles which it would be likely to encounter from the indisposition of the people of the United States to suffer encroachment upon the ordinary and constitutional exercise of the legislative functions of the respective States by the making of treaties which are passed on by only one branch of the Federal Congress but which have the force of the supreme law. The fact that such treaties were made with Switzerland and Belgium could hardly be considered as a precedent for such enactment of law in the form of a treaty with nations having the great commercial interests of Great Britain. However much I might be pleased to respond affirmatively to your request, yet in the light of all the circumstances and of the vigilance with which any apparently important invasion of the rights of the States to regulate their own domestic concerns is guarded against, I am persuaded that such treaty, if negotiated, would fail of ratification by the Senate.

For these reasons the proposed negotiation would, in my judgment, be fruitless, even if such a treaty could be agreed upon and submitted to the Senate.

I have, etc.,

JOHN HAY.

**PROTECTION OF AMERICAN INTERESTS BY BRITISH REPRESENTATIVES DURING WAR WITH SPAIN.**

*Mr. Hay to Mr. Choate.*

No. 166.]

DEPARTMENT OF STATE,  
*Washington, June 27, 1899.*

SIR: At the beginning of the recent war with Spain the diplomatic and consular representatives of Her Majesty accredited to the Spanish Government generously undertook the protection of the interests of American citizens and the transaction of necessary public business in behalf of the Government of the United States during the continuance of the war. Diplomatic relations having now been reestablished between this Government and that of Spain, it is desired that the cordial thanks of the Government of the United States be extended through the foreign office of Great Britain to the diplomatic and consular representatives of Her Majesty, and especially to Sir H. Drummond Wolff, Her Majesty's ambassador to the Court of Madrid, for their friendly offices to this Government and its citizens during the suspension of diplomatic relations. You are therefore requested to address to Lord Salisbury a suitable note conveying the expression of the appreciation with which the Government of the United States has received the valuable services of Her Majesty's representatives in the reception and care of the archives of the legation at Madrid, the protection afforded to American interests in Spain and the Spanish colonies, and the good offices exercised for this Government, with the

request that its most grateful thanks be extended to Sir H. Drummond Wolff and the other officers of the British Government who have been instrumental in serving the United States.

I have, etc.,

JOHN HAY.

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*Mr. Choate to Mr. Hay.*

No. 117.]

AMERICAN EMBASSY,  
*London, July 12, 1899.*

SIR: I have the honor to acknowledge the receipt of the Department's No. 166, of the 27th ultimo, instructing me to convey to Her Majesty's Government the thanks of the President to Her Majesty's diplomatic and consular representatives in Spain for their friendly services rendered to the United States during the suspension of diplomatic relations with that country, and in obedience thereto I addressed a note to Lord Salisbury on the 11th instant, of which I inclose a copy herewith.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure in No. 117.]

*Mr. Choate to Lord Salisbury.*

AMERICAN EMBASSY,  
*London, July 11, 1899.*

MY LORD: It affords me the greatest pleasure to inform your lordship that I have received the instructions of the President to express to your lordship the cordial thanks of the Government of the United States for the very friendly offices performed on its behalf by Her Majesty's diplomatic and consular representatives in Spain during the recent war between the United States and that country; and the President desires especially to express his obligations to Sir Henry Drummond Wolff, Her Majesty's ambassador at the Court of Madrid, for his faithful attention to the interests of the United States and of its citizens during the suspension of diplomatic relations.

At the outset of the war Her Majesty's representatives accredited to the Spanish Government very generously undertook to look after American interests in Spain, and to transact for the United States such public business as the existence of war rendered possible and necessary.

The services so voluntarily assumed were uniformly performed in the most friendly and courteous manner, and the President and people of the United States fully appreciate their value, and cherish a grateful recollection of them. They were a happy earnest of the good will prevailing between the two countries.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

No. 127.]

AMERICAN EMBASSY,  
*London July 20, 1899.*

SIR: Referring to your instruction numbered 166, of 27th ultimo, I have the honor to inclose herewith the copy of a note which I have received from the Marquis of Salisbury, in reply to mine of the 11th instant, whereof a copy was transmitted to you in my dispatch No. 117, of the 12th instant.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure in No. 127.]

*Lord Salisbury to Mr. Choate.*FOREIGN OFFICE, *July 17, 1899.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 11th instant expressing the thanks of the Government of the United States for the friendly offices of Her Majesty's diplomatic and consular officers in Spain during the recent war.

I shall have much pleasure in communicating to the consular officers concerned the appreciation of their services so kindly expressed in your excellency's note, and in conveying to Sir H. D. Wolff the flattering message of the President with regard to his personal efforts.

I have, etc.,

SALISBURY.

**PROTECTION OF BRITISH INTERESTS AT PRETORIA BY UNITED STATES CONSUL.**

*Mr. Tower to Mr. Hay.*

[Confidential.]

BRITISH EMBASSY,  
*Washington, October 8, 1899.*

SIR: I have the honor, by direction of Her Majesty's principal secretary of state for foreign affairs, to inquire whether, in the event of an attack upon the British forces by the Boers rendering necessary the withdrawal from Pretoria of the British agent, your Government would allow the United States consul at Pretoria to take charge of British interests.

I have, etc.,

REGINALD TOWER.

*Mr. Hill to Mr. Tower.*

[Confidential.]

No. 1580.]

DEPARTMENT OF STATE,  
*Washington, October 11, 1899.*

SIR: In response to your confidential note of the 8th instant, and in view of the further inquiry orally made to me by you this morning, I have the honor to inform you that in the event of the necessary withdrawal from Pretoria of the British agent, the Government of the United States will have pleasure in allowing its consul at Pretoria to afford to British interests in that quarter the friendly and neutral protective offices usual in such contingency.

I have, etc.,

DAVID J. HILL,  
*Acting Secretary.*

*Mr. Tower to Mr. Hay.*

[Immediate.]

WASHINGTON, *October 13, 1899.*

SIR: I am directed by Her Majesty's principal secretary of state for foreign affairs, to whom I communicated by telegraph the contents of Dr. Hill's note No. 1580, of the 11th instant, to convey to you the

thanks of Her Majesty's Government for the courteous expression of readiness to allow the United States consul at Pretoria to afford to British interests in that quarter the neutral protective offices usual in such contingency as that which has now occurred, viz, the withdrawal of the British agent from that place.

I have now the honor to request that you will be good enough to give effect to this compliance with the desire of Her Majesty's Government.

I have, etc.,

REGINALD TOWER.

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*Mr. Adee to Mr. Tower.*

No. 1584.]

DEPARTMENT OF STATE,  
*Washington, October 13, 1899.*

SIR: In view of Dr. Hill's assent, in his note of the 11th, to the request of your Government that the United States consul at Pretoria be allowed to afford the usual friendly protective offices to British interests in the event of the withdrawal of British representation, and such withdrawal having now taken place, as I am advised by your note of the 13th, just received, I have had the pleasure in telegraphing Consul Macrum that he is authorized, with the assent of the South African Government, to afford to British interests the friendly protective offices usual in such contingencies.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

## GUATEMALA AND HONDURAS.

### CLAIM OF MRS. LUELLA A. OTERI VS. HONDURAS.

*Mr. Gresham to Mr. Young.*

No. 11.]

DEPARTMENT OF STATE,  
*Washington, June 8, 1893.*

SIR: I inclose a copy of a memorial<sup>1</sup> of Mrs. Luella A. Oteri, by which you will see that Mrs. Oteri desires this Government to prefer a claim against Honduras for the alleged seizure of her vessel, the *Joseph Oteri, Jr.*, by Honduran insurgents in the port of Ceiba. She further asks this Government to prefer a claim in her behalf against Honduras on account of the refusal of the Honduran authorities on a subsequent occasion to admit this vessel into the ports of that country. The Department desires you to investigate the circumstances of the seizure of the vessel by the insurgents, and also the circumstances attending the subsequent exclusion of this vessel from Honduran ports. It is particularly desirable to know whether, when the vessel went into the port of Ceiba from New Orleans with cases of arms and ammunition on board, the officer in charge had knowledge of the fact that Ceiba was in possession of the insurgents. It may be mentioned, by the way, that the arms and ammunition were taken aboard in New Orleans after clearance was obtained, and were not included in the ship's manifest. For this violation of our navigation laws the vessel has been subjected to a fine. It is stated that the fact of the vessel having arms and ammunition aboard was entered in the custom-house at Ceiba upon the arrival of the vessel there, and if the master of the vessel knew, or reasonably might have known, that the insurgents had possession there, this was a practical invitation to them to come aboard and get those arms and this ammunition. The vessel remained three days at Ceiba before she was taken by the insurgents. This is sought to be accounted for, as you will note from the petition, by the fact that a cablegram had been sent to New Orleans to know whether custom-house officers of Ceiba would be allowed on board the *Joseph Oteri, Jr.*, and she was awaiting a reply.

What you are desired to do in this connection is to ascertain whether the circumstances justify the belief that the master of the vessel was acting in good faith and without any intention of playing into the hands of the insurgents, and whether he was, without any negligence or collusion on his part and against his will, actually captured by the insurgents and forced to render to them the service which it is complained he was compelled to render. It is evident that the President of Honduras was at the time under the impression that there was collusion between the master of this vessel and the insurgent authority. You will investigate fully this point.

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<sup>1</sup> Not printed.

In connection with the exclusion of this vessel from the ports of Honduras upon her next voyage from New Orleans, you will note what is stated in the memorial, and will ascertain and report upon the facts connected with such exclusion. I may remind you that a vessel belonging to this same line of steamers, which was commanded by Captain Pizatti, is at present under process in the United States courts in New Orleans for violation of our neutrality laws committed by aiding the President of Honduras in the suppression of the rebellion. You will probably have to communicate with and call for reports from the United States consuls at the various points mentioned in the memorial, and you will use your discretion in obtaining otherwise such information as may throw light upon these matters.

I am, sir, etc.,

W. Q. GRESHAM.

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*Mr. Hay to Mr. Beaupre.*

No. 127.]

DEPARTMENT OF STATE,  
Washington, March 15, 1899.

SIR: Referring to the Department's instructions, Nos. 183,<sup>1</sup> of January 28; 33,<sup>1</sup> of April 4, and 72,<sup>1</sup> of September 1, 1898, in relation to the claim of Mrs. Luella A. Oteri against the Honduran Government, you are directed to bring the matter again to the attention of that Government and courteously but firmly insist upon a prompt fulfillment of its agreement to settle the claim. More than three years have now elapsed since the Government of Honduras expressed its willingness to settle the claim by the payment of \$2,500, gold, in monthly installments, and the Department confidently expects that the matter will be settled without further delay.

I am, etc.,

JOHN HAY.

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*Mr. Hunter to Mr. Hay.*

No. 253.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
Guatemala, September 21, 1899.

SIR: I have the honor to transmit herewith inclosed Spanish copy and translation of an executive decree of the 5th instant from the Government of Honduras and relating to the claim of Mrs. Luella A. Oteri.

As will be seen by this decree, the Government of Honduras, in conformity with its proposition of February 27, 1896, which was ratified on the 9th of June of this year and accepted by me in my communication to that Government of July 7 last, adjusting the claim of Mrs. Oteri in the sum of \$2,500, gold, has ordered payment of said amount by the custom-house at La Ceiba in monthly installments of \$250, gold, each, to be delivered to the Hon. Frederick H. Allison, United States consul at Tegucigalpa, who will grant receipts for same.

I have, etc.,

W. GODFREY HUNTER.

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<sup>1</sup> Not printed.



[Inclosure.]

## DECREE.

[Translation.]

REPUBLIC OF HONDURAS,  
OFFICE OF THE MINISTER OF FOREIGN AFFAIRS,  
*Tegucigalpa, September 5, 1899.*

MR. MINISTER: I have the honor to transcribe to your excellency the decree, which says:

"TEGUCIGALPA, *September 5, 1899.*

"Whereas, in the month of February, 1896, there was communicated to the Government of Honduras through His Excellency P. M. B. Young, envoy extraordinary and minister plenipotentiary of the United States of America, the claim of Mrs. Luella A. Oteri, founded on the detention of the American steamer *Joseph Oteri, Jr.*, which took place on the 15th of July, 1892, by Col. Leonardo Nuila, chief of the insurrection forces against the Government presided by General Ponciano Keiva, said claim amounting to the sum of twenty-two thousand eight hundred eighty-nine dollars and ninety-five cents for losses which the claimant alleges to have suffered in the fruit business during the detention of the steamer, and to the sum of nineteen thousand nine hundred fifty-four dollars and thirty cents for damages resulting from the denial to the aforesaid steamer of entrance into the ports of Honduras in July, 1892.

"Whereas this Government not finding the claim well founded, this office so indicated it to His Excellency General Young in a note of February 27, 1896, because it was a fact which could be proven at any moment it might be desired that Mr. Nuila detained the steamer and used it on his expedition to Trujillo with the consent of the captain and other officers; and because the steamer having served on the expedition of Mr. Nuila, nothing was more natural than that the authorities of the constituted Government should not permit its entrance until receiving satisfactory explanations.

"Whereas, in view of the above expressed and because the new administration of the country, which arose because of the revolutionary movement of Mr. Nuila begun at La Ceiba, makes it possible to treat the matter from a benevolent standpoint, this office, in the note before mentioned, proposed to His Excellency General Young, not as an indemnity for damages, but as payment for services lent by the steamer, that the claim be arranged in the sum of (\$2,500) two thousand five hundred dollars, gold, or its equivalent in Honduras silver, to be paid in the custom-house of La Ceiba in monthly installments of (\$250) two hundred and fifty dollars each in gold, beginning with the date of the termination of this agreement; which proposition was ratified on the 9th of June of the current year. Whereas, in an official communication of the 7th of July last, His Excellency Mr. W. Godfrey Hunter, the present American minister to the Governments of Guatemala and Honduras, this office was informed on the same date that the aforesaid proposition was accepted; and that in consequence it is proper to effect the payment in the form indicated: Therefore,

"The President decrees: To order that the custom-house of La Ceiba pay to Mrs. Luella A. Oteri (\$2,500) two thousand five hundred dollars, gold, or its equivalent in Honduras silver, such payment to be made in monthly installments of (\$250) two hundred fifty dollars each in gold, which will be delivered to the Honorable Frederick H. Allison, consul of the United States at this capital, who has been commissioned to receive them as they become due and to grant the corresponding receipts in the name of the United States of America. Let it be communicated. Sierra. The secretary of state in the department of foreign relations, by the law. Ricardo Pineda."

With the highest considerations, I remain, etc.,

RICARDO PINEDA, *Subsecretary.*

**PRESENTATION OF CREDENTIALS OF UNITED STATES MINISTER  
TO THE PRESIDENT OF HONDURAS.**

*Mr. Hay to Mr. Hunter.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 6, 1898.*

The union having apparently broken up without restoration of the Diet, you will address the Executive of Honduras, offering to present your original credentials in order to continue close and friendly relations between your Government and that Republic.

HAY.

*Mr. Hunter to Mr. Hay.*

[Telegram.]

GUATEMALA, *January 28, 1899.* (Received 10.54 p. m.,

Original credentials presented and have been officially recognized by President Honduras; particulars by mail.

HUNTER.

*Mr. Hunter to Mr. Hay.*

No. 132.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, January 28, 1899.*

SIR: Referring to Department's cablegram, dated December 6, 1898, instructing me to address the Executive of Honduras offering to present my original credentials, I have the honor to inform you that on receipt of said instructions I wired the President of Honduras and our consul at Tegucigalpa as follows:

GUATEMALA, *December 7, 1898.*

His Excellency Señor DON POLICARPO BONILLA,  
*President of Honduras, Tegucigalpa, Honduras:*

The union of the United States of Central America having been dissolved, I beg to ask if I can now be officially received by Your Excellency for the purpose of presenting an autograph letter from the President of the United States, accrediting me to your Government as envoy extraordinary and minister plenipotentiary of the United States of America. I embrace this opportunity to renew to Your Excellency the assurance of my most distinguished consideration.

W. GODFREY HUNTER.

GUATEMALA, *December 7, 1898.*

Hon. FREDERICK H. ALLISON,  
*United States Consul, Tegucigalpa, Honduras:*

In accordance with telegraphic instructions from Washington I have this day wired His Excellency the President of Honduras asking if I can now be officially received by him for the purpose of presenting an autograph letter from the President of the United States accrediting me to his Government as envoy extraordinary and minister plenipotentiary of the United States of America. Please seek an inter-

view with the President and procure if possible an early decision and advise me of the result. I expect the President to respond, but shall be obliged if you will reply also.

W. GODFREY HUNTER.

To which they replied by wire as follows:

NATIONAL PALACE,  
*Tegucigalpa, Honduras, December 8, 1898.*

MINISTER OF THE UNITED STATES,  
*Guatemala:*

I have the honor to inform you that as circumstances have changed in this country, relative to foreign relations, by reason of the dissolution of the United States of Central America, there is now no hindrance to your official reception.

I am your most obedient servant,

P. BONILLA.

TEGUCIGALPA, HONDURAS, *December 8, 1898.*

HON. W. GODFREY HUNTER,  
*United States Minister, Guatemala:*

The Government informs me that an answer has been sent to you saying that no reason exists why your credentials should not be received.

FREDERICK H. ALLISON,  
*United States Consul.*

In compliance with the above I transmitted by mail through the minister of foreign affairs of Honduras my original credentials and letter to President Bonilla. I also wrote our consul as follows:

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 20, 1898.*

HIS EXCELLENCY THE MINISTER OF FOREIGN AFFAIRS,  
*Tegucigalpa, Honduras.*

SIR: I have the honor to transmit herewith inclosed a communication for His Excellency Señor Don Policarpo Bonilla, President of Honduras, which contains two autograph letters from the President of the United States—one accrediting me to the Government of His Excellency President Bonilla as envoy extraordinary and minister plenipotentiary of the United States and the other recalling my predecessor, the Hon. Macgrane Cox; also an address in the form of a letter from me.

Please present these in the usual way and do me the kindness to mail to me here President's response.

The office copies of these two letters of President McKinley I had the honor to transmit to your Government on the 26th of January, 1898.

I embrace this opportunity to extend to your excellency the assurance of my distinguished consideration.

W. GODFREY HUNTER.

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 24, 1898.*

HIS EXCELLENCY SEÑOR DON POLICARPO BONILLA,  
*President of the Republic of Honduras.*

MR. PRESIDENT: In accordance with your excellency's telegraphic communication of the 8th, in answer to mine of the 7th instant, I have the honor to transmit herewith inclosed an autograph letter from the President of the United States accrediting me to your Government as envoy extraordinary and minister plenipotentiary of the United States of America.

It is a source of deep regret that pressing official duties prevent my leaving here at this time for Honduras, thus depriving me of the extreme pleasure of presenting in person this letter to your excellency. I shall, however, quite soon do myself the honor to visit your capital for the purpose of meeting your excellency officially.

I beg to assure you that the President and people of the United States have viewed with genuine satisfaction the rapid march of progress in Honduras during the administration of your excellency, and to add that my highest ambition shall have been

gratified if, by my presence near your Government, the cordial and friendly relations which have always existed between the Republics of the United States and Honduras may be continued and promoted.

I have the honor to transmit herewith inclosed the letter of recall of my distinguished predecessor, the Hon. Macgrane Cox, who resigned while on leave of absence, thereby preventing him from presenting it in person.

I embrace this opportunity to renew to your excellency the assurance of my most distinguished consideration.

W. GODFREY HUNTER.

GUATEMALA, *December 24, 1898.*

Hon. FREDERICK H. ALLISON,  
*United States Consul, Tegucigalpa, Honduras.*

MY DEAR SIR: Accept sincere thanks for your kind offices in the matter of my official reception by the President of Honduras.

The President kindly informs me by wire that I will be officially received by him. On account of press of official business I can not leave here at this time and have therefore taken the liberty to transmit by mail to the minister of foreign affairs my credentials, and have asked that I be officially received in this way.

I expect to visit Honduras quite soon, but would like to be recognized now in order to enable me to transact some official business with Honduras long neglected.

Please see the minister of foreign affairs and the President, if necessary, and ask that this favor be granted.

Sincerely yours,

W. GODFREY HUNTER.

On the 22d instant I received the following telegram:

TEGUCIGALPA, *January 22, 1899.*

Hon. W. GODFREY HUNTER,  
*United States Minister, Guatemala:*

You have been officially recognized by this Government.

FREDERICK H. ALLISON,  
*United States Consul.*

In answer I wired as follows:

GUATEMALA, *January 23, 1899.*

Hon. FREDERICK H. ALLISON,  
*United States Consul, Tegucigalpa, Honduras:*

Your telegram received. Accept sincere thanks for your kindness. Wire date of my official recognition, that I may cable to Washington.

W. GODFREY HUNTER.

To which the minister of foreign affairs wired as follows:

EXECUTIVE PALACE,  
*Tegucigalpa, January 25, 1899.*

THE MINISTER OF THE UNITED STATES OF AMERICA:

By the next mail your excellency will receive the answer to the autographs, and the decree in which your excellency is recognized in his high position.

I protest to your excellency the assurances of my distinguished consideration.

ANGEL UGARTE,  
*Minister of Foreign Affairs.*

On receipt of the decree referred to by the minister of foreign affairs I shall transmit a copy to the Department.

I have, etc.,

W. GODFREY HUNTER.

*Mr. Hunter to Mr. Hay.*

No. 135.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, January 30, 1899.*

SIR: Referring to Department's cablegram, dated December 6, 1898, and my No. 132, dated January 28, 1899, relative to presenting my

original credentials to the executive of Honduras, I have the honor to transmit herewith inclosed additional communications received, as follows:

Two autograph letters from the President of Honduras to President William McKinley.

Translation of office copies of same.

Translation of private letter from the President of Honduras to Mr. Hunter.

Translation of decree recognizing Mr. Hunter as envoy extraordinary and minister plenipotentiary of the United States to Honduras.

I have, etc.,

W. GODFREY HUNTER.

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[Inclosure.]

*Mr. Ugarte to Mr. Hunter.*

[Translation.]

EXECUTIVE PALACE, REPUBLIC OF HONDURAS,  
OFFICE OF THE MINISTER OF FOREIGN AFFAIRS,  
*Tegucigalpa, January 19, 1899.*

SIR: Inclosed I have the honor of remitting to your excellency the following documents:

Two autograph letters of the President of the Republic in answer to the two of the President of the United States.

One private letter from the President of the Republic addressed to your excellency.

Two copies of the autographic letters, and one decree recognizing your excellency in the elevated capacity of envoy extraordinary and minister plenipotentiary to this Government.

I am happy on this occasion to address to your excellency my sincere congratulations for the merited proof of confidence which the Government of the United States has evinced toward your excellency, intrusting you with a mission so honorable, and to protest to your excellency the sentiments of my distinguished consideration.

ANGEL UGARTE.

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[Subinclosure 1.]

*The President of Honduras to the President of the United States.*

[Translation.]

EXECUTIVE PALACE, *Republic of Honduras.*

GREAT AND GOOD FRIEND: Your Excellency's autographic letter has been sent me, in which you are pleased to communicate to me that the Hon. Mr. W. Godfrey Hunter, a distinguished citizen of that country, has been accredited to my Government in the capacity of envoy extraordinary and minister plenipotentiary of the United States of America.

Your Excellency adds that Mr. Hunter is well informed in regard to the respective interests of both countries, and of the sincere desire of Your Excellency to cultivate in its broadest sense the friendship which has so long existed between them; and manifests the confidence which the character and ability of the person appointed inspire, in believing that he will work for the interests and prosperity of the two Governments.

In answer, I manifest to Your Excellency that Mr. Hunter had not been received before by my Government, in his elevated mission, because Honduras, by virtue of the agreement of Anapala, had resigned her sovereignty to a diet in charge of the foreign affairs, and which, in consequence, had the exclusive faculty of receiving diplomatic representatives.

This sovereignty having been resumed anew by this Republic, I take the greatest pleasure in receiving Mr. Hunter in the high office with which he has been honored

and I will give him entire faith and credit in the discharge of the mission which has been intrusted to him, aiding him in all possible ways in the greatest success in his labors, especially in that part which conduces to the broadening of the cordial relations which fortunately exist between Honduras and the United States.

Written in Tegucigalpa this 18th day of January, 1899.

Loyal and good friend,

P. BONILLA,  
ANGEL UGARTE.

Exact copy of original:  
ANGEL UGARTE.

[Subinclosure 2.]

*The President of Honduras to the President of the United States.*

[Translation.]

EXECUTIVE PALACE, *Republic of Honduras.*

GREAT AND GOOD FRIEND: The Hon. Mr. W. Godfrey Hunter has remitted to me the autographic letter of Your Excellency, dated November 16, 1897, in which Your Excellency is pleased to inform me of the recall of Mr. Macgrane Coxe, who discharged with such prudence the mission of envoy extraordinary and minister plenipotentiary of the United States in Honduras, he having resigned for personal reasons the above-mentioned office.

It gives me satisfaction to be able to assure Your Excellency that Mr. Macgrane Coxe, during the time of his mission, dedicated his efforts to bring about the good understanding and cordial relations which have happily existed and still exist between the Governments of Honduras and the United States, and in his personality made himself worthy of the esteem and appreciation of this Government by his unquestionable merits.

Written in Tegucigalpa on this 18th day of January, 1899.

Loyal and good friend,

P. BONILLA.  
ANGEL UGARTE.

Exact copy of original:  
ANGEL UGARTE.

[Subinclosure 3.]

*Mr. Bonilla to Mr. Hunter.*

[Translation.]

EXECUTIVE PALACE, REPUBLIC OF HONDURAS,  
*Tegucigalpa, January 18, 1899.*

MR. MINISTER: Through the agency of the secretary of foreign affairs your excellency's esteemed official communication of December 24 last, including the autographic letter of the most excellent sir, the President of the United States of America, accrediting your excellency as envoy extraordinary and minister plenipotentiary to my Government, has been received.

I regret as well as your excellency the fact that unavoidable official duties have prevented your excellency from presenting your credentials in person, and I entertain the hope of seeing the speedy fulfillment of your excellency's promise in order that I may be able to receive you with the cordiality and honor due the representative of a friendly nation with which Honduras takes pleasure in cultivating friendly relations.

I am grateful to your excellency for the benevolent manner in which you judge my administration in matters relative to the progress of Honduras, and I can assure your excellency that one of the principal things which has received the attention of the Government actually presiding is the maintenance of a good, friendly intelligence with other nations, and for the same reasons your excellency will find all possible facilities in the discharge of your high and important mission.

I also received the inclosed autographic letter of the most excellent sir, the President, Mr. McKinley, referring to the recall of Mr. Macgrane Coxe, your excellency's distinguished predecessor. The minister of foreign relations will transmit to your excellency, along with the present communication, the copies of my answer to the two autographic letters.

I take this opportunity of protesting to your excellency the sentiments of my most distinguished consideration.

P. BONILLA.

## FOREIGN RELATIONS.

[Subinclosure 4.]

*Mr. Ugarte to Mr. Hunter.*

[Translation.]

EXECUTIVE PALACE, REPUBLIC OF HONDURAS,  
OFFICE OF THE MINISTER OF FOREIGN AFFAIRS.

*Tegucigalpa, January 19, 1899.*

SIR: I have the honor of transcribing to your excellency the decree which says:

*TEGUCIGALPA, January 19, 1899.*

In view of the credentials remitted by the Hon. Mr. W. Godfrey Hunter, by which he is accredited to this Government in the capacity of envoy extraordinary and minister plenipotentiary of the United States of America, the President of the Republic decrees:

To hold the Hon. W. Godfrey Hunter as envoy extraordinary and minister plenipotentiary, and to command that he be shown all the honors and distinction which correspond to his elevated position. Let it be communicated.

BONILLA.

*The Secretary of State in the Department of Foreign Relations.*

ANGEL UGARTE.

Please accept, Mr. Minister, the assurance of my most distinguished consideration, with which I subscribe myself,

Your excellency's most obedient servant,

ANGEL UGARTE.

**COURTESIES SHOWN BY GUATEMALAN OFFICIALS TO U. S. S.  
PHILADELPHIA.**

*Mr. Hunter to Mr. Hay.*

No. 129.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, January 7, 1899.*

SIR: I have the honor to inform you that the United States flagship *Philadelphia*, Rear-Admiral Albert Kautz, commanding, reached San José, Guatemala, on the 30th ultimo. The Admiral wired that he desired to pay his respects to me and to have an audience with the President, and that he would be accompanied by five of his staff officers. This fact I communicated in person to the President, who at once invited them to become the nation's guests during their stay in Guatemala. At 6 o'clock on the evening of the 31st, the Admiral and staff arrived in this city on a special provided by Colonel Hodgson, manager of the Guatemala Central Road. They were met 10 miles out by a committee from the American club, a number of prominent Americans, and the secretary of this legation.

I received them at the depot and introduced them to the minister of foreign affairs and an officer of the President's staff sent to welcome them to Guatemala in the name of the President. Suitable quarters were procured at the Grand Union Hotel, where they remained until their departure yesterday morning.

They were royally entertained by the Government and citizens during their stay here.

At 1 o'clock p. m. on the 1st instant the President received them most cordially at the palace. They held a reception at the United States legation from 2 to 4 o'clock on the same day. The cabinet and

other high Government officials, the diplomatic corps, and prominent citizens called to pay their respects.

Two entertainments were given in their honor at the American Club, at one of which the President attended. They were invited to a ball at the Guatemalan Club and a banquet was given them at the American legation.

A magnificent banquet and breakfast was given them by the President at Villa la Aurora, situated in a beautiful Government park, 3 miles south of this city, which the President attended, accompanied by the Cabinet and other high Government officials. About sixty of the most prominent citizens of the city were invited.

The villa was tastefully decorated with American and Guatemalan flags, and the military band furnished delightful music, with an occasional American and Guatemalan air.

The President drank to the American Navy, and spoke at some length eulogistic of the United States, to which the Admiral responded. The banquet was a great success and regarded by all present as the most superb entertainment of the kind ever given in Guatemala.

As the menu<sup>1</sup> of the President's banquet had a handsome picture of the *Philadelphia*, one will be found hereto attached.

The Admiral and staff left this morning for San José, delighted with their reception in this city, and accompanied by a member of the President's staff.

I have, etc.,

W. GODFREY HUNTER.

*Mr. Hay to Mr. Hunter.*

No. 104.]

DEPARTMENT OF STATE,  
*Washington, January 31, 1899.*

SIR: I have to acknowledge with gratification the receipt of your dispatch No. 129, of the 6th instant, reporting the courtesies shown Rear-Admiral Kautz and his officers of the flagship *Philadelphia*, during their recent visit to Guatemala city.

I am etc.,

JOHN HAY.

*Mr. Hay to Mr. Hunter.*

No. 109.]

DEPARTMENT OF STATE,  
*Washington, February 7, 1899.*

SIR: Referring to your dispatch No. 129, of the 6th ultimo, I have to inform you that I am in receipt of a letter dated the 2d instant from the Secretary of the Navy, in which he requests that the thanks of his Department be conveyed to the authorities of Guatemala, and to yourself and the other representatives of the United States at Guatemala city, for the courtesies shown Admiral Kautz and the officers of the U. S. S. *Philadelphia* on the occasion of their recent visit to that city.

You will express in suitable terms and through the appropriate channels the thanks of the Navy Department as above indicated.

I am, etc.,

JOHN HAY.

<sup>1</sup> Not printed.



**TREATY BETWEEN UNITED STATES AND HONDURAS, REPORTED  
DENUNCIATION OF.**

*Mr. Hay to Mr. Hunter.*

No. 103.]

DEPARTMENT OF STATE,  
*Washington, January 28, 1899.*

SIR: The consul of the United States at Tegucigalpa, in his dispatch No. 14, of December 9, 1898, touching the complaint of American citizens against the Government of Honduras, reported that President Bonilla had informed him that the treaty of 1864 (July 4, 1864) "was denounced in 1878-79, but that all clauses of the treaty had been recognized as if it was really in existence."

So far as the archives of this Department show I have been unable to find any notification made by this Government or by that of Honduras of the intention of either to terminate that treaty. If such record exists at Tegucigalpa I shall be glad to have a copy thereof and of any reply by this Government.

Confidentially, I may add that this question is one of serious urgency, in view of the fact that valuable property belonging to a recently deceased American citizen, J. Cook Kingsley, of Brooklyn, N. Y., is in dispute and the authorities of Honduras deny the competency of our consul to intervene. President Bonilla alleges that the treaty was terminated in 1878-79 and sustains the local judicial authorities. Mr. Kingsley suicided at San Salvador, December 23, 1898. Both the consul there and at Tegucigalpa are familiar with the case. The attorneys are Messrs. Evarts, Beaman and Choate, of New York, who have been in telegraphic correspondence with the consuls direct and through this Department. The deceased left property also in Salvador. A representative is understood to have sailed from New Orleans for Central America, on the 12th instant, to look after and protect as far as possible, with the assistance of our consuls, the interests of the deceased.

I make these observations for your personal information in order to show the necessity for an early reply touching the status of the treaty of 1864.

I shall give the consul at Tegucigalpa a copy of this instruction so that you may feel free to call upon him for any assistance in the matter.

Commending this subject to your personal and instant attention,  
I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Hunter.*

No. 138.]

DEPARTMENT OF STATE,  
*Washington, April 5, 1899.*

SIR: Referring to the Department's instruction No. 103, of January 28, 1899, I inclose for your information a copy of a dispatch from the consul of the United States at Tegucigalpa, No. 48, of March 10, 1899, relative to the denunciation by the Government of Honduras in 1898 of certain treaties with the United States.

I inclose also a copy of the Department's reply, from which it will appear that no treaties under the dates mentioned by Mr. Allison—namely, May 28, 1849, and May 10, 1863, were ever concluded by this Government; that so far as its archives are concerned no notification of the termination of the treaty of July 4, 1864, has ever reached this Department.

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*Mr. Allison to Mr. Hill.*

No. 48].

CONSULATE OF THE UNITED STATES,  
*Tegucigalpa, March 10, 1899.*

SIR: I have the honor to inform you that in accordance with my dispatch of some months previous, in which I stated that ex-President Bonilla had informed me that no treaty existed between the United States and Honduras and that it was denounced in 1878 or 1879, I have found on the record here the following:

By decree of provisional Government of Dr. Marco Aurelio Soto, dated in La Paz, April 25, 1877, were denounced several existing treaties, including—

The general convention with United States signed May 28, 1849, and the one signed May 10, 1863.

This act was approved by Congress in decree of March 20, 1879.

I beg to state that our Government will have no trouble in effecting a new treaty with the Government of Honduras or a renewal of the old one, if, in your opinion, this will be necessary, as I have had some little talk with President Sierra and his ministers, and they have expressed their willingness in this matter; however, if I am to come to the United States soon, there will be several points if a new treaty is to be made which I would like to suggest.

I have notified our consul-general, Mr. A. M. Beaupré, at Guatemala, of the decrees in reference to treaty which I found on the records here.

I am, etc.

FREDERICK H. ALLISON,  
*United States Consul.*

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[Inclosure 2.]

*Mr. Cridler to Mr. Allison.*

No. 52.]

DEPARTMENT OF STATE,  
*Washington, April 5, 1899.*

SIR: I have to acknowledge the receipt of your No. 48 of March 10, in relation to the denunciation of the treaty between the United States and Honduras, referred to in my No. 24 of January 28, 1899. You say that you have found on the record at your consulate the following:

By decree of provisional government of Dr. Marco Aurelio Soto, dated in La Paz, April 25, 1877, were denounced several existing treaties, including the general convention with United States, signed May 28, 1849, and the one signed May 10, 1863. This act was approved by Congress in decree of March 20, 1879.

By reference to Department's instruction you will find that the treaty referred to as having been denounced in 1878 or 1879 by the Honduran Government was that concluded July 4, 1864, relative to friendship, commerce, and navigation.

Your dispatch speaks of two treaties signed May 28, 1849, and May 10, 1863. So far as the record of this Department discloses the fact, I am unable to find that any treaties bearing those dates were ever concluded with the Government of Honduras.

Requesting that you will give the matter further investigation and report,

I am, etc.,

THOS. W. CRIDLER.

# FILIBUSTERING EXPEDITION RECRUITED IN UNITED STATES.

*Mr. Beaupre to Mr. Hay.*

[Telegram.]

GUATEMALA, *February 28, 1899.* (Received March 1, 1899.)

President of Guatemala asked me to refuse to consent to the landing 150 adventurers recruited Kansas, Texas, by a leader of Honduras to disturb order in Guatemala. American press reports the movement. Left Mobile; will probably arrive Puerto Barrios to-day or to-morrow. The President awaits instructions from you to refuse landing.

BEAUPRE.

*Mr. Hay to Mr. Beaupre.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, March 1, 1899.*

If reasonable grounds of suspicion you will not oppose action of Government of Guatemala in refusing landing of alleged filibusters.

HAY.

*Mr. Beaupre to Mr. Hay.*

No. 147.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, March 3, 1899.*

SIR: I have the honor to confirm the appended telegram.<sup>1</sup>

In view of the apparently reliable information that a steamer had left the United States with about 150 filibusters on board, with arms and ammunition, destined for an attack upon Honduras, I consider it an act of much courtesy and consideration on the part of the President of this Republic to inform the Government of the United States of his desire to prevent the landing of these filibusters upon Guatemalan territory, when in any event he would have perhaps been justifiable in stopping them without notice.

From the little information I have it would appear that the men were recruited with the ostensible purpose of working on the North-

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

ern Railroad of Guatemala, but were in fact to join other parties and invade Honduras, with the end of making Domino Vasquez President. Whether or not this project will now be attempted I can not say, but I think it would be well to have the *Machias* remain in Honduran waters for a time.

Mr. Allison, our consul at Tegucigalpa, has been notified of the situation, and I have wired him of the action of this Government.

I have, etc.,

A. M. BEAUPRE,  
*Chargé d'Affaires ad interim.*

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*Mr. Hay to Mr. Arriaga.*

No. 39.]

DEPARTMENT OF STATE,  
*Washington, March 3, 1899.*

SIR: Referring to my conversation with you in regard to the reported departure from New Orleans, for Puerto Barrios, Guatemala, of a filibustering expedition, I have the honor to inform you, that I at once communicated with the several Departments having direction in such matters. I am to-day in receipt of a letter from the Secretary of the Navy, stating that he has telegraphed the commanding officer of the U. S. S. *Machias*, now stationed at Puerto Cortez, acquainting him with the reported departure of the expedition and directing him to take such action as may necessary to prevent any violation of the neutrality laws of the United States. It is trusted that this prompt action on the part of the Secretary of the Navy will effectually check the execution of any hostile act which may have been meditated against a friendly government by the expedition in question.

Be pleased, etc.,

JOHN HAY.

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*Mr. Arriaga to Mr. Hay.*

No. 36.]

LEGATION OF GUATEMALA,  
*Washington, March 4, 1899.*

MR. SECRETARY OF STATE: I was informed by your note of yesterday that the Secretary of the Navy had instructed the commander of the U. S. S. *Machias*, now stationed at Puerto Cortez (Cortes?) to endeavor to prevent any violation of the neutrality laws of the United States by members of the filibustering expeditions to which I referred in our last conversation.

I warmly thank your excellency in the name of my Government for the promptness with which you were pleased to cause this order to be issued.

An expedition of 150 men, recruited in the State of Missouri, which was to embark on the 2d instant for Puerto Barrios on the steamer of the New Orleans-Belize Royal Mail and Central Steamship Company, was prevented by the notification of the consul of Guatemala to Messrs. Macheca Brothers, the owners of the said steamship line, that the authorities of Puerto Barrios and Livingston would not permit the landing of suspicious passengers and cargo; but both the members of that expedition and those of others which were to follow, are still at New Orleans and in various Southern cities, and there is good reason

to believe that Gen. Domingo Vasquez, who is now at New Orleans, and his agents, are engaged in endeavoring to procure other means of transportation for these men.

I therefore beg your excellency to be pleased to cause instructions to be sent to the proper Federal authorities in the ports of Galveston, New Orleans, Mobile, and Pensacola to prevent the embarkation of any filibustering expedition that may seek to sail from these points. Also, of any arms and other munitions of war destined for the Guatemalan ports of the Atlantic, without the previous authorization of the consul-general of Guatemala at New Orleans.

I avail myself, etc.,

ANTO. LARO ARRIAGA.

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*Mr. Hay to Mr. Beaupre.*

No. 121.]

DEPARTMENT OF STATE,  
*Washington, March 4, 1899.*

SIR: Referring to your telegram of the 1st instant, in regard to the alleged departure of a filibustering expedition from the United States to Guatemala, and to the Department's telegraphic reply of the same date, confirmed in my instruction of the 3d instant, I have to inclose, for your information, copies of correspondence had with the Navy Department in regard to the said expedition.

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*Mr. Hay to the Secretary of the Navy.*

DEPARTMENT OF STATE,  
*Washington, March 1, 1899.*

SIR: Referring to my letter of even date herewith, communicating the telegram received from the United States minister to Nicaragua, and with reference to the apprehensions therein expressed in regard to an alleged filibustering expedition to depart from New Orleans for Honduras, I have the honor to inform you that I am advised by the minister from Guatemala that he is informed of the reported organization at Kansas City and departure from New Orleans yesterday on the steamer *Managua* of an unlawful expedition destined for Puerto Barrios in Guatemala. Mr. Lazo Arriaga represents that the expedition is numerous and well organized, but that its ostensible purpose in proceeding to Puerto Barrios is to engage in the operations of railway construction in that vicinity, while the real motive is believed to be the disturbance of the peace of Central America by fomenting an insurrection there, presumably in Honduras. He adverts to the circumstance that the newspaper press has published accounts of the departure of the expedition from Kansas City, and adds that the Government of Guatemala purposes to prevent the landing of the expedition at Puerto Barrios.

I have, therefore, the honor to request that so far as may be practicable the agencies under your direction will be exerted to prevent any violation of the neutrality laws of the United States.

I have, etc.,

JOHN HAY.

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[Inclosure 2.]

*Mr. Long to Mr. Hay.*

NAVY DEPARTMENT,  
*Washington, March 1, 1899.*

SIR: Referring to the matter of the departure of an alleged filibustering expedition from New Orleans, La., for Honduras, and the representations of the minister from

Guatemala in that connection, I have the honor to inform you that, in compliance with the request contained in your letter of even date, that so far as practicable the agencies of this Department be exerted to prevent the violation of the neutrality laws of the United States. The following telegram has this day been sent to the commanding officer of the U. S. S. *Machias*, now at Puerto Cortez, Honduras:

"Informed by State Department of departure from New Orleans yesterday by steamer *Managua*, ostensibly for Puerto Barrios, of a numerous well-organized armed expedition, intending to foment insurrection in Honduras. You take such action as may be necessary under the neutrality laws of the United States to prevent the commission of hostile acts by this expedition, fitted out in the United States against a friendly government. Acknowledge and report by cable such action as you may take."

Very respectfully,

JOHN D. LONG, *Secretary*.

*Mr. Hay to Mr. Beaupre.*

No. 122.]

DEPARTMENT OF STATE,  
*Washington, March 6, 1899.*

Supplementing my instruction of the 4th instant, No. 121, communicating correspondence with the Navy Department in regard to the reported departure of a filibustering expedition from New Orleans for Puerto Barrios, Guatemala, I have to inclose for your information copy of a letter from the Secretary of the Treasury reporting the arrival at New Orleans of alleged filibusters and the watch kept upon their movements.

I am, etc.,

JOHN HAY.

[Inclosure.]

*The Secretary of Treasury to the Secretary of State.*

TREASURY DEPARTMENT,  
*Washington, March 3, 1899.*

SIR: I have the honor to transmit herewith, for your information, a copy of a telegram, dated the 2d instant, from the collector of customs at New Orleans, relative to 116 alleged filibusters at that port.

A similar letter has been addressed to the honorable the Secretary of the Navy and Attorney-General.

Respectfully, yours,

L. J. GAGE, *Secretary*.

[Subinclosure.]

*Mr. Wimberly to the Secretary of the Treasury.*

[Telegram.]

NEW ORLEANS, *March 2, 1899.*

Referring Department's telegram yesterday, about 116 alleged filibusters reached here from Kansas City about noon. Discouraged in attempt to sail, 67 these men returned to Kansas City last night via Yazoo and Mississippi Valley Railroad. Remainder still here and are being closely watched.

A. T. WIMBERLY, *Collector*.

*Mr. Beaupre to Mr. Hay.*

No. 155.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, March 16, 1899.*

SIR: I have the honor to report that the threatened invasion of Honduras by filibusters seems to have been entirely averted. The Presi-

dent of this Republic took prompt measures to prevent their landing in Guatemala, and when it was disclosed that a number of the leaders were already here they were placed under close surveillance, and have been since sent out of the country, or, rather, permitted to leave. Some arms and ammunition brought in by the filibusters were seized by the Government authorities and are still held.

It is quite certain that there is no further danger in the near future, but it is my opinion that another attempt will be made at the first available opportunity.

Gen. H. O. Jeffers and Col. J. Bascom Jones, with ten or twelve others (all Americans) have returned to Costa Rica, from whence they came, while General Vasquez and Colonel Drummond are supposed to be at New Orleans.

Colonel Drummond is the man who organized the expedition in the United States. He is a British subject, but formerly lived in Honduras. He is very bitter in his hatred of that republic, because of alleged personal injuries and wrongs suffered by him there.

I have, etc.,

A. M. BEAUPRE,  
*Chargé d'Affaires ad interim.*

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*Mr. Hay to Mr. Beaupre.*

No. 128.]

DEPARTMENT OF STATE,  
*Washington, March 17, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 147, of the 3d instant, confirming your telegram of the 28th ultimo, in relation to the reported departure of filibusters from the United States for Puerto Barrios, Guatemala, with designs against Honduras, and giving additional information.

In reply I inclose herewith, for your information, a copy of a letter from the Secretary of the Treasury, showing the action taken by his Department in the matter.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*The Secretary of Treasury to Secretary of State.*

TREASURY DEPARTMENT,  
*Washington, D. C., March 14, 1899.*

SIR: Referring to your letter dated the 6th instant, relative to 116 alleged filibusters, I have the honor to transmit herewith, for your information and any suggestion that you may think proper to make to this Department, a copy of a letter dated the 11th instant from the collector of customs at New Orleans, setting forth the action taken by him in relation to the alleged filibusters in question, and to the alleged attempt to export 52 cases of arms and ammunition.

Respectfully, yours,

L. J. GAGE.

[Subinclosure.]

*Mr. Howell to the Secretary of the Treasury.*

OFFICE OF THE COLLECTOR OF CUSTOMS,  
*Port of New Orleans, La., March 11, 1899.*

SIR: On the 1st instant this office received the following telegram from the Department:

"United States minister at Managua, Nicaragua, requests that expedition stated to be of filibustering character be prevented from leaving your port for Honduras, and

Secretary State requests that agencies of this Department be exerted to prevent violation neutrality laws. Attention invited to newspaper statements regarding departure of organization from Kansas City and your port on steamer *Managua* for Puerto Barrios. Minister Guatemala represents that expedition is numerous and well organized; that its ostensible purpose in proceeding to Puerto Barrios is to engage in the operations of railway construction, but that real motive is believed to be disturbance of the peace of Central America by fomenting an insurrection there, presumably in Honduras. He states that Government of Guatemala purposes to prevent landing of expedition at Puerto Barrios. Report matter to United States attorney and take any proper action practicable to prevent violation law."

To the above the following reply was sent on the next day:

"Referring Department's telegram yesterday: About 116 alleged filibusters reached here from Kansas City about noon. Discouraged in attempts to sail, 67 of these men returned to Kansas City last night, via Yazoo and Mississippi Valley Railroad. Remainder still here and are being closely watched."

Inspectors of customs were, by my order, placed at once at all the steamship landings, the railroad depots, and the two inlets to the city from Lake Pontchartrain, with instructions to prevent the departure of any suspicious passengers, and to report all such to this office without delay.

The leaders of the expedition, ascertaining that these precautions had been made, and finding it impossible to take their men out without a clash with the Government authorities, abandoned the whole project, paying the fare back to Kansas City of such of the men as desired to return. As reported, forty-odd of the men remained in the city and have been attempting to leave for Honduras or other Central American countries in small groups.

On the 8th instant clearance was withheld from the *Olympia* until 6 steerage passengers, bound for Puerto Cortez, could be examined. Sufficient evidence to hold these men could not be obtained, and they were allowed to depart.

Clearance was withheld from the steamship *Breakwater* on the morning of the 9th instant until 8 steerage passengers could be examined. This examination developed the fact that a majority of these men were discharged soldiers from the Fifth Missouri Volunteer Infantry, and were a part of the Kansas City expedition. The owners of the *Breakwater*, who were present at the examination, after hearing the evidence, on their motion, refused to take these men as passengers. The consular agent at Honduras had been invited by me to be present during this examination, and was on hand.

Realizing that more of the men who remain in the city from the Kansas City expedition would attempt to leave, this office sent the following telegram to the Department on the 9th instant:

"Referring Department telegram 1st instant, and office telegram following day, parties of 6 or 8 of the forty-odd remaining from Kansas City expedition are seeking steerage passage for Honduras. United States attorney advises not to interfere, as they carry no arms and there is no definite evidence on which to base proceedings. Held steamer *Breakwater* this morning until 8 of these passengers could be examined. After examination, owners vessel, of their volition, refused to take men as passengers. Instructions requested."

To the above reply was received from the Department as follows:

"Department understands that passengers you mention as filibusters will not be allowed to proceed to Honduras on steamer *Breakwater*. Further instructions from Department seem unnecessary at present."

On the 10th instant the Bluefields Steamship Company took out 15 laborers of the steamship *Condor*. These men were carefully examined, and there was no evidence to show that they were part of the Kansas City expedition. The consular agent of Honduras stated to this office, in writing, that he was satisfied that the men were bona fide laborers, and that he had no objection to their proceeding to Honduras. They were, therefore, allowed to take passage.

Instructions were requested in office telegram of the 9th instant, for the reason that several of the Kansas City crowd still remained in the city, and because the United States attorney expressed the opinion that as the men carried no arms or went on an armed vessel this office had no right to interfere. A most careful scrutiny is still being made of all persons seeking passage on any of the vessels bound for Central America, and instructions are requested whether any persons suspected to belong to the Kansas City expedition should be prevented from taking passage notwithstanding that he may have no arms.

Referring to Department's telegram of the 4th instant to the effect that advice had been received that 52 cases arms and ammunition had been shipped to Mobile en route for Guatemala, I beg to say that this office has taken special precautions to



prevent the shipment of arms or munitions of war to any of the Central American countries. These precautions are still carefully observed. In a number of instances where ships have laden merchandise deemed by the inspector in charge to be subject to suspicion the packages have been opened by the agent of the vessel at the request of this office. In each case the merchandise has been found to be as manifested.

In the case of 32 packages gunpowder manifested as blasting powder, to be shipped to Costa Rica, the Costa Rican consul advised this office not to allow the packages to go forward. The Snyder Banana Company, agents of the vessel, itself volunteered to reject the powder as freight.

This office is of opinion that no contraband goods nor men who propose to engage in the filibustering enterprises have left this port recently. Acting in conjunction with the United States attorney, this office has been careful, in all instances where a question arose as to the propriety of a shipment of goods or departure of men, to act without exercising its authority, the agents or owners of vessels in each instance taking upon themselves, by advice of this office, the responsibility of refusing the shipments or passengers.

Respectfully, yours,

A. N. HOWELL,  
*Special Deputy Collector.*

*Mr. Beaupre to Mr. Hay.*

No. 158.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, March 21, 1899.*

SIR: I have the honor to transmit inclosed a translation of a note received by this legation from the Hon. Angel Ugarte, chargé d'affaires of Honduras, concerning the recent filibustering expedition, and a copy of my reply thereto.

I have, etc.,

A. M. BEAUPRE,  
*Chargé d'Affaires ad, etc.*

[Inclosure 1.]

*Mr. Ugarte to Mr. Beaupre.*

[Translation.]

LEGATION OF HONDURAS IN GUATEMALA,  
*Guatemala, March 15, 1899.*

SIR: The President of Honduras addressed me yesterday a telegram which says:

PALACIO DE TEGUCIGALPA, *March 14, 1899.*

MR. ANGEL UGARTE, *Guatemala:*

According to your telegram of yesterday, I understand that the chargé d'affaires of the United States thinks that with the disposition taken by the American Government, and by the President of that Republic, we need not fear any menace of the filibusters, and recommending you to let him know anything that we may know, that he may proceed accordingly, I beg you to express to that high functionary our gratefulness for the interest he has taken in favor of the peace of Honduras.

Yours, very truly,

F. SIERRA.

Fulfilling the pleasing trust conferred to me, to make you know our grateful sentiments, I have the honor, etc.,

ANGEL UGARTE.

[Inclosure 2.]

*Mr. Beaupre to Mr. Ugarte.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, March 20, 1899.*

SIR: I have the honor to acknowledge the receipt of your very kind note of the 15th instant, in which you inform me of the contents of a telegram received by you

from his excellency the President of Honduras, who has the goodness to say therein that he is gratified at the attitude of this legation toward the recent filibustering expedition.

I beg that you will say to his excellency the President that nothing could give me greater personal satisfaction than to know that my actions have not only tended to the preservation of peace in Honduras, but to preserve the cordial and friendly relations existing between our respective Governments.

Thanking you very much for the pleasant words which you have seen fit to add in your own behalf, I avail myself, etc.,

A. M. BEAUPRE,  
*Chargé d'Affaires ad interim.*

# ARBITRATION BETWEEN GREAT BRITAIN AND HONDURAS BY UNITED STATES CHARGÉ D'AFFAIRES.

*Mr. Beaupre to Mr. Hay.*

No. 159.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, March 22, 1899.*

SIR: I have the honor to confirm my cipher telegram of the 17th instant, on the subject of an invitation extended me to act as arbitrator of a question between Honduras and Great Britain, and to acknowledge receipt of a cipher telegram in reply, dated the 18th instant. I append to this dispatch translations of both telegrams.

Under your authority I have accepted the post and shall conform strictly to the instructions outlined in your telegram.

The parties in interest wish you to know, however, that it was their desire to submit the question to me as the representative of the United States, but as the time during which I should continue to act as chargé d'affaires ad interim was necessarily very limited, and it would be a saving of time to have me conclude the case after I had taken it up, it was asked that I be permitted to continue as arbitrator after I had ceased to be chargé. Still, they now accept the conditions prescribed by your telegram, only asking that the submission should contain the words:

"Arthur M. Beaupre, who is now chargé d'affaires ad interim of the United States," to which I sign my individual name, and render my decision over my personal signature.

I have to inform you that the case involves but a small amount of money and no complications can possibly arise from it. In July, 1892, the British schooner *Lottie May* put into Ruatan, a port in the island of Ruatan, off the coast of Honduras, unloaded a cargo of provisions and asked for a clearance for Great Caiman, from whence she had come. Clearance was refused, because of revolutionary troubles prevailing on some part of the Honduran coast, and subsequently the captain of the schooner was arrested, because, as alleged and denied, he used insulting and vile language to the authorities. He was kept in jail, to the injury of his health, as alleged, for six days, and the vessel detained during that time, at the end of which time he was permitted to go. The British Government claims damages to the amount of £300 for the captain and £200 for the vessel. The Honduranian Government admits that it should pay the damages for the vessel, but disputes the amount, and claims that it is not liable for damages on account of imprisoning the captain.

I have, etc.,

A. M. BEAUPRE,  
*Chargé d'Affaires ad interim.*

## FOREIGN RELATIONS.

[Inclosure 1.]

*Mr. Beaupre to Mr. Hay.*

[Telegram.]

GUATEMALA, *March 16, 1899.*

Honduras envoy here to settle by arbitration question with British Government. Representatives offer me post of sole arbitrator to retain functions when I cease to be chargé d'affaires. Will accept with the full permission of the Department of State.

BEAUPRE.

[Inclosure 2.]

*Mr. Hay to Mr. Beaupre.*

[Telegram.]

WASHINGTON, *March 18, 1899.*

Invitation as arbitrator of question between Honduras and Great Britain appears to be to you personally, and not as United States chargé d'affaires. In that understanding you are permitted to accept, being careful to completely dissociate your judicial function from your representative status.

HAY.

*Mr. Hay to Mr. Beaupre.*

No. 141.]

DEPARTMENT OF STATE,  
*Washington, April 11, 1899.*

SIR: I have to acknowledge the receipt of your dispatch, No. 159, of the 22d ultimo, explaining the case between Honduras and Great Britain which you have been requested to arbitrate.

The Department approves the conditions, as stated in the dispatch, under which the submission is made.

I am, etc.,

JOHN HAY.

**COURTESIES SHOWN BY GUATEMALAN OFFICIALS TO U. S. S.  
NEWARK.**

*Mr. Hunter to Mr. Hay.*

No. 245.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, August 21, 1899.*

SIR: I have the honor to inform you that on the morning of the 16th instant the United States cruiser *Newark*, Capt. C. F. Goodrich commanding, reached San José, Guatemala.

The captain at once reported to me that fact by wire, and of his purpose to visit the capital to pay his respects to the President and to the American minister.

He arrived here at 4 in the afternoon, with eight of his officers and men, and was received at the depot by a representative of the Government and by the secretary of this legation.

At 5 he visited this legation and by appointment I accompanied him to the palace, where at 11 o'clock next morning he was cordially

received by the President, who expressed regret that the early departure of the *Newark* would deprive him of the pleasure of entertaining the captain and his officers.

At 8.30 on the morning of the 18th Captain Goodrich and his party left San José on a special train provided by Col. D. B. Hodgson, general manager of the Guatemala Central Railroad, and sailed in the evening for San Francisco.

While here invitations were extended and accepted by the officers to a ball at the Guatemala Club, a banquet at the American Club, a dinner at the palatial residence of Col. D. B. Hodgson, and a breakfast by the American minister.

It affords me great pleasure to state that the entire party produced a most favorable impression by their commendable deportment during their brief stay in this city.

I have, etc.,

W. GODFREY HUNTER.

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*Mr. Adée to Mr. Hunter.*

No. 191.]

DEPARTMENT OF STATE,  
*Washington, September 13, 1899.*

SIR: I have to acknowledge the receipt of your dispatch, No. 245, of the 21st ultimo, reporting the arrival of the United States cruiser *Newark* at San José, Guatemala, and the courtesies shown to Capt. C. F. Goodrich and his officers on their visit to Guatemala City.

At the instance of the Acting Secretary of the Navy, to whom Captain Goodrich has reported the matter, you will express to President Cabrera the thanks of the Navy Department for the generous hospitality extended to Captain Goodrich and his officers.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

## HAITI.

### CONSULAR IMMUNITIES. ARREST BY HAITIAN AUTHORITIES OF AN EMPLOYEE OF THE UNITED STATES VICE-CONSUL-GENERAL.

*Mr. Powell to Mr. Hay.*

No. 545.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, April 5, 1899.*

SIR: I transmit to the Department under this inclosure the correspondence that has lately passed between the foreign office of the Haitian Government and the legation upon an attempt on the part of the Haitian authorities to arrest one of the employees of Dr. J. B. Terres, the vice-consul-general.

The correspondence will give the history of the case and my action in the matter. I have since had an interview with the secretary of foreign affairs ad interim, Hon. Stephan Lafontant, and believe the incident to be happily closed without friction, the Haitian secretary of foreign affairs stating the unpleasant incident arose from a misinterpretation of orders on the part of subordinate officials; that they were not authorized to make such arrest or to invade the domicile of our vice-consul-general.

The Department will favor me to pass upon my action.

I have, etc.,

W. F. POWELL.

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[Inclosure 1.]

*Mr. Terres to Mr. Powell.*

No. 309.]

CONSULATE-GENERAL OF THE UNITED STATES,  
*Port au Prince, Haiti, March 30, 1899.*

MY DEAR MINISTER: On the afternoon of the 29th, when I arrived at my residence, I found at the entrance and also on the premises some fifteen or twenty Haitian soldiers, who, however, withdrew before I had time to reach the gate. I inquired of one of my domestics what was their mission. He replied that they had come with an order to arrest two men I had employed on the premises.

The following morning, in coming from my bath, I found two Haitian generals stationed on the gallery of my house. I asked them what was their mission. They informed me that they had an order to arrest two Spaniards that I had in my employment. I demanded who had given them such orders. They replied that it was an order from the minister of the interior. I told them that I did not admit of any right on his part to invade my premises with an armed force under any pretext whatever, and that if he desired any information from me on any matter, to write to me officially and I would answer him.

Mr. Minister, I most solemnly protest against any such action on the part of the Haitian Government, and I lay these facts before you hoping that you will take such steps as you may deem necessary to prevent a like occurrence.

I am, etc.,  
374

JOHN B. TERRES.

[Inclosure 2.]

*Mr. Terres to Mr. Powell.*CONSULATE-GENERAL OF THE UNITED STATES,  
*Port au Prince, Haiti, April 1, 1899.*

SIR: On the afternoon of the 30th ultimo I received from the minister of the interior the inclosed communication, which I transmit to you with my reply to same.

Respectfully, etc.,

JOHN B. TERRES.

[Subinclosure.—Translation.]

*Mr. Auguste to Mr. Terres.*PRIVATE OFFICE OF THE SECRETARY OF STATE OF THE INTERIOR,  
*Port au Prince, March 30, 1899.*

MR. THE VICE-CONSUL: On the request of the chargé d'affaires of the Dominican Republic addressed to me, I would be greatly pleased if you would have delivered Mr. Marcon Aroche (Alvarez) to the chief of the post of Carrefour. Mr. Marcon Aroche, alias Alvarez, works at present in the tobacco plantation that belongs to you and which you have established in that quarter.

Please accept, etc.,

T. AUGUSTE.

[Subinclosure.]

*Mr. Terres to Mr. Auguste.*CONSULATE-GENERAL OF THE UNITED STATES,  
*Port au Prince, Haiti, March 31, 1899.*

SIR: I have your favor of March 30. I have carefully noted the statement you have made therein. In reply to your communication I beg to inform you that I have brought this matter to the attention of our minister, who will take such steps as he may deem necessary to prevent our homes being invaded in future.

I am, etc.,

JOHN B. TERRES.

[Inclosure 3.]

*Mr. Powell to Mr. Lafontant.*LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, March 30, 1899.*

SIR: Dr. J. B. Terres, the United States vice-consul-general, informs me this morning that his premises were entered yesterday upon an order from your honorable colleague, the Hon. T. Auguste, secretary of interior, for the purpose of arresting some of his employees, who were Cubans.

I desire to call your immediate attention to this matter, that in entering upon the premises of accredited officers of the United States, located in this Republic, is a grave infraction of international law, a recurrence of which will be very apt to lead to serious complications. I also desire to inform you that all Cubans resident in this Republic are under the protection of the United States while in the peaceful performance of their work, and are not to be molested.

You will greatly favor me by calling the attention of your honorable colleague, the Hon. Tancrede Auguste, to this matter, that your Government has no right to enter upon the premises of United States consular officers with either its military or its constabulary force.

Accept, etc.,

W. F. POWELL.

## FOREIGN RELATIONS.

[Inclosure 4.—Translation.]

*Mr. Lafontant to Mr. Powell.*DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
*Port au Prince, Haiti, March 31, 1899.*

MR. MINISTER: I hasten to acknowledge reception of your important communication of yesterday's date, which I immediately transmitted to the department of interior to obtain the necessary information.

However, and before even those informations, I can give you the assurance that it can never have entered in the intention of my colleague, Mr. the Secretary of State of the Interior, to give orders that may be of the nature to bring a violation of international laws and the violation of the dwelling of an accredited agent of the United States.

If a like circumstance has been able to take place, I remain convinced that it can only have been in consequence of badly interpreted instructions.

I take note that the Cubans residing in the Republic are under the protection of the Government of the United States of America, and I beg you to accept, Mr. Minister, the renewed assurance of my high consideration, etc.,

N. S. LAFONTANT.

*Mr. Powell to Mr. Hay.*

No. 547.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, April 10, 1899.*

SIR: I transmit under this cover copies of the correspondence that has passed between the foreign office and the legation concerning the complaint made by Dr. J. B. Terres of an attempt to arrest one of his employees. This correspondence may be considered as a continuance of dispatch No. 545, April 6.

The inclosed correspondence having been received since the above dispatch was sent, this completes the history of the case, which has been settled without any unpleasant feeling being left.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

*Mr. Lafontant to Mr. Powell.*DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
*Port au Prince, April 8, 1899.*

MR. MINISTER: Confirming to you the declarations that I have had the honor to make to you at our late interview, I am pleased to give you the assurance that in ordering, on the request of Mr. the chargé d'affaires of the Dominican Republic, the arrestation to be expelled of a Dominican who is in the service of Dr. Terres, vice-consul-general of the United States of America, my colleague of the department of the interior had in no wise the intention to violate the dwelling of an accredited agent of the United States, nor to commit any infraction of the international laws.

The order, moreover, not having any sequence, and the agent of the authority having stopped in view of the protestation of Dr. Terres.

You will kindly remember that in my dispatch of the 31st March, in reply to the one in which you made known to me the incident of which you thought to have a cause of complaint, I gave you the same assurances.

I have not failed to remark to you how much it would have been painful for the Government, that you could believe for a single instant that a minister of the Republic could have given an order of a nature to disturb the good relations that unite the two republics and to which my Government attaches such price.

Please accept, etc.,

N. S. LAFONTANT.

[Inclosure 2.]

*Mr. Powell to Mr. Lafontant.*LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, April 10, 1899.*

SIR: I have your favor dated April 8. I am glad to know from you that it was not the intention of your honorable colleague, the minister of state for the interior, Hon. Tancrede Auguste, to violate any right of international courtesy that pertains to foreign representatives accredited to your Government, and that you have, on the part of your Government, promptly disavowed any such intention.

I heartily agree with you on the very pleasant way this incident has been closed, showing the strong and kindly feeling of your Government for that of mine, which I trust will continue to grow more binding as each advance in years.

I have the pleasure also to inform you in this dispatch that the two Dominicans referred to are not and have never been in the employ of our vice-consul-general, Dr. J. B. Terres.

Accept, etc.,

W. F. POWELL.

*Mr. Hay to Mr. Powell.*

No. 341.]

DEPARTMENT OF STATE,  
*Washington, April 25, 1899.*

SIR: I have to acknowledge the receipt of your No. 119<sup>1</sup> of the 5th instant, San Domingo series, and your No. 545 of the same date, Haitian series.

In your first-mentioned dispatch you state that the Dominican charge at Port au Prince requested you to surrender two alleged Dominican refugees "said to be in the employ of the Vice-Consul-General Terres."

It appears from your No. 545 that the parties were merely employed "in the tobacco plantation" belonging to Dr. Terres, and that the Haitian military authorities did not enter the legation or consular premises, but merely went to Dr. Terres's residence. Even this is explained to have been the result of a blunder on the part of subordinate officials.

In view of these facts, the Department is of opinion that you had no authority whatever in the premises, either to grant or to refuse the surrender of the parties, or to approve their arrest.

I am, etc.,

JOHN HAY.

**"ASYLUM" IN LEGATION AT PORT AU PRINCE.***Mr. Powell to Mr. Hay.*

[Telegram.]

PORT AU PRINCE, *August 2, 1899.*

Haitian sought asylum in legation; was removed by force. Have demanded his return, and apology from Government for invading same. Is to be returned. Please advise me as to surrendering him to authorities. Matters here very critical.

POWELL.

<sup>1</sup> Not printed.



*Mr. Powell to Mr. Hay.*

No. 613.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 2, 1899.*

SIR: I respectfully inform the Department of what came very near resulting in a serious affair to-day. Hearing a considerable noise in the consulate, which is on the first floor of the building in which the legation is located, I was about to descend the stairs, when I was hastily informed that a posse of soldiers, under the command of the general of the La Place, had entered the consulate and taken from there a Haitian named Ulrick Duvivier. When I reached the lower floor I found the consulate filled with people, and our deputy, Mr. Batiste, talking rapidly to one of the generals in command of the military forces.

On being informed, I immediately demanded the return of this man to the consulate, stating they had no right to enter it in the manner they did; that it was not Haitian territory; that if this man sought an asylum here there was a proper way to secure him, but they could not forcibly take him in this manner. The officer refused to give him up, and requested the use of the legation's telephone to communicate with one of the ministers of the cabinet, the secretary of the interior. I replied he was at liberty to do so, but that this man must be returned.

In the meanwhile the foreign secretary, Mr. St. Victor, reached the legation, some one having notified him. I demanded the immediate return of this man, and a suitable apology made by his Government for this forcible intrusion by a posse of armed soldiers into our legation. He replied the man was under arrest for conspiracy, and could not be surrendered to me. I reiterated my demand for the return of this person. He requested that I would wait until he communicated with the President. I informed him he could state to the President, with my compliments, that I would not allow our legation to be entered in this manner.

In a few moments thereafter the man was returned and is now here.

I immediately cabled to the Department my action. I also communicated in writing with the Government, demanding an apology for this forcible entry. Since this arrest one of the former ministers, Mr. Solon Menos, craved the protection of the legation, which I have given him.

Arrests have been made by the wholesale to-day, each legation has several that have fled to it for protection, many of the leading citizens are in prison, and no one feels safe.

This afternoon the foreign secretary called, stating the President regretted the hasty action of his general, and would inform me in writing. I requested of the President, through the foreign secretary, to exercise clemency toward those in prison; to think of the foul stain that would be cast upon his administration, especially as it had been markedly different from that of his predecessors; that the welfare of his country was intrusted to him for its good, as a wise and humane ruler; finally, that the world would mark his action at this moment of his country's history. He returned me word that he would not execute anyone, except those he found in arms against the Government; at the same time he sent a safe conduct to the ex-minister, Mr. Menos, that he might return to his home in perfect safety.

Inclosed please find correspondence.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

*Mr. Powell to Mr. St. Victor.*

No. 287.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 2, 1899.*

SIR: Allow me to bring to your immediate notice that at 10.30 this morning the premises of our legation were violated by one of the general officers of the Government, in taking therefrom by force one who had entered our legation.

I consider this a gross violation of international courtesy that is due by you to a Government that has ever been friendly and mindful of your national interests.

I am therefore compelled to ask that a suitable acknowledgment be made for this invasion.

Accept, etc.,

W. F. POWELL.

[Inclosure 2.]

*Mr. St. Victor to Mr. Powell.*

[Translation.]

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
REPUBLIC OF HAITI,  
*Port au Prince, Haiti, August 3, 1899.*

MR. MINISTER: I have the honor to acknowledge the receipt of the dispatch No. 287, of the 2d of this month, by which you draw my attention to the act committed by an officer, Haitian general, penetrating in the building occupied by the legation of the United States of America in this city, in pursuit of an individual who had taken refuge there.

Kindly, I beg you, permit me to remind you, Mr. Minister, that finding myself in the neighborhood of your legation at the moment that the unfortunate incident of which you entertain me took place, I did not lose a minute and hastened to transport myself there for the purpose of ordering the officer general to desist. I reserved to myself—and was preparing myself to do so when your letter reached me—to renew to you through an official dispatch the regrets that I have already had the honor to express to you by word of mouth in the name of the Government on the occasion of the error committed by one of its generals.

I would add that His Excellency the President of the Republic, notwithstanding that the officer in question has declared under oath that he was ignorant of the fact that the lower floor of the building formed a part of the legation of the United States of America, inflicted on him a severe reprimand.

The Haitian Government—I do not hesitate to invoke on the subject your high testimony—attaches too high a price to the friendship of the great Federal Republic, and seeks ever the occasion to prove its lively admiration and its ardent desire to always tighten more and more the bonds of cordial sympathy that unite so closely the two nations, not to reprove with energy an act so little in harmony with its most precious sentiments.

Please accept, etc.,

B. ST. VICTOR.

[Inclosure 3.]

*Mr. Powell to Mr. St. Victor.*

No. 289.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 4, 1899.*

SIR: I have the honor to state that I have received your favor to-day, containing the regrets of His Excellency the President, that one of his general officers should enter this legation and take therefrom by force one who had sought our protection.

I shall transmit the same with an account of the incident to my Government.

Accept, etc.,

W. F. POWELL.

*Mr. Ades to Mr. Powell.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1899.*

If newspaper telegrams correctly state Duvivier case your remonstrance against violation and demand for refugee's return were rightly made. He should be sheltered against all but strictly regular legal process. Should he or any other refugee be demanded on regular warrant, you should decline judicial service upon legation, saying you can only recognize a request made through minister of foreign affairs. If such request be made, refer it to this Department for instructions.

ADEE, *Acting.**Mr. Ades to Mr. Powell.*

No. 358.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1899.*

SIR: There was received from you yesterday a cipher telegram, which was interpreted to read as follows:

Haitian sought asylum in legation; was removed by force; have demanded his return and apology from Government for invading same. Is to be returned. Please advise me as to surrendering him to authorities. Matters here very critical.

Shortly after the receipt of your telegram I was shown press dispatches purporting to give the particulars of the incident, as to which your report was silent. It appeared therefrom that, while a number of presumably political arrests were being made, one Duvivier, described as "a newspaper man," was seized, that he dragged his captor within the precincts of the legation, that the captor succeeded in getting out again with Duvivier, that you had protested against the violation of your premises, and that the Haitian Government had apologized and returned Duvivier to you. This statement is not at variance with yours, and is supposed to present the salient facts with fair accuracy.

While the facts so appearing do not indicate that the man was a refugee in the ordinary acceptance of the term, by having sought asylum and been admitted to its enjoyment by you, but rather suggest that Duvivier and his captor were both intruders, forced upon you in the heat of a struggle and without your consent, the circumstance that the captor appears to have continued to assert forcible authority within your precincts by removing his captive thence would seem to have been such a violation of your diplomatic domicile as to justify your remonstrance and your demand for a restoration of the status quo which existed from the moment when the captor's exercise of force within your dwelling became an infringement of your privilege.

Such an invasion of your domicile is, however, to be carefully distinguished from the collateral question of your right or power to afford to a native of the country immunity from the pursuit of the territorial authorities by claiming for him so-called "asylum." The Department has uniformly discountenanced the assertion by its diplomatic agents of the claims of right of asylum. In holding, as it has repeatedly done, that its agents are not competent, under inter-

national law, to harbor an accused criminal from the pursuit of law it has also held that the pursuit must be shown to be orderly and regular. It could, under no circumstances, admit that mere arbitrary force can be exerted by local agents to effect the capture of any person within the minister's dwelling.

Further than this, it is soundly held that, even when the refugee criminal is pursued in regular course of law, with exhibition of a warrant of arrest by a qualified officer of the courts, he may neither be formally arrested within the legation precincts nor formally surrendered by the minister to the agent of the law. The former would amount to an exercise of local jurisdiction within the envoy's domicile which is inconsistent with his diplomatic immunities and his representative dignity. The latter would virtually be an assumption by the envoy of a nonexistent function of surrender by way of quasi extradition, for which no warrant of international or statutory law can be adduced. The envoy can neither admit service upon him of a local judicial warrant nor become in any way a party to the execution of the writ. Under the varying conditions presented by this class of questions it is impossible to lay down any hard and fast rule of action for an envoy's guidance. The facts of each case are indispensable to a determination of the principles involved and the course to be pursued. It may be generally said, however, that sentiments of humanity and abstract justice counsel the affordance of shelter to an unfortunate person from lawless violence; that such shelter is a different thing from a claim of asylum from the regular justice of the territorial sovereign; that upon sufficient allegation of the criminality of the refugee, and upon adequate showing of the regularity of the judicial proceedings had against him, the right of the envoy to harbor him disappears, and that the evidence of criminality and of the regularity of the legal process against the accused should be made known to the envoy through the diplomatic channel and not by invasion of his domicile by attempted arrest therein.

Should a demand be diplomatically made upon you for the person of Duvivier, or any other person similarly situated, you will report it to the Department, with the evidence of criminality and of the regularity of the proceedings, in order that the matter may be determined with full knowledge of all pertinent facts.

The foregoing considerations will serve to elucidate the telegram sent to you to-day, of which a transcript is appended.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Mr. Powell to Mr. Hay.*

[Telegram.]

PORT AU PRINCE, *August 5, 1899.*

Cable has been received. Will follow instructions. Situation very bad; arrests still being made. The legation full of refugees. May need naval vessel to protect our interests. If so, will cable.

POWELL.

*Mr. Powell to Mr. Hay.*

No. 616.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 8, 1899.*

SIR: I respectfully inform the Department of the course of events up to the time (9 a. m.) of closing the mail. At present everything is quiet. The Government is still making arrests, though a few have been released. Many that are supposed to be suspected have been secluded by their friends until the excitement is over.

The number now confined in prison is 69, though many more have been arrested but released. These men will no doubt be exiled by a decree of the Government. The President has sent me word (orally) that none would be executed. The most prominent of the men arrested is C. Fouchard. He was at one time the minister of finance under President Salomon; upon the death of President Hippolite, was candidate for the office of President, at the time General Sam was elected, but withdrew in his favor. He is one of the wealthiest men in the Republic and has a large number of friends, but lately he has taken no part in politics. His arrest has therefore caused great surprise.

The *Moniteur* (the official organ), with an official statement of the Government's action, appears to-day. I inclose it.

The foreign secretary, Mr. St. Victor, sent me an official communication late yesterday, requesting the number of persons who have sought our protection. I have not yet answered the communication. I have been informed the Government intends to issue a decree expelling those it has arrested and confined, as well as those that have sought refuge in the several legations, each of which have several. If such a decree be made, I shall promptly cable for instruction before recognizing it.

The financial condition is still grave; but was temporarily relieved by a loan of \$200,000 by the bankers. This has had a tendency to relieve the situation greatly. I think the Government will, within a few days, realize the only steps to secure permanent security and allay the present feeling will be to consolidate their debts into one, retire the paper currency, and reduce the tariff on imports and exports, especially that on coffee. To do this they will have to secure a large loan and place the revenue derived from their customs, with the control of their custom-houses, as a guaranty for the repayment of such a loan, into the hands of a syndicate.

The surrender of their custom-houses they have heretofore refused. If they take this step, alluded to above, they will endeavor to float such a loan in the New York market. This will relieve the situation and bring immediate permanent relief.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

[Extract from *Le Moniteur*, August 5, 1899.—Translation.]

SECRETARY OF STATE OF THE INTERIOR AND OF THE GENERAL POLICE.

During the course of the week several citizens whose conduct was subversive to the order of established things have been placed under arrest. Encouraged by the moderation of the Government that they took for weakness, they gave themselves to a most active propaganda, discounting in advance the success of their machinations

and prognostications to all who would listen to them—the near downfall of the Government.

The duty of the authority was all marked out in such conjunctures; it has had apprehended these agitators by the police, and will not delay to deliver them to their natural judges. In fact, already the preliminary formalities of all the judicial information have been fulfilled in their regards.

Let the peaceable citizens reassure themselves! The Government, that always knows to distinguish the good seed from the tare, promise the greatest and most efficacious protection to their persons and their property. Imbued with its duties and conscious of its rights, it will not draw back before any measure proper to assure the interior peace and to give the most absolute security to all those who live under the shadow of the institutions that the nation has freely given itself.

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[Inclosure 2.]

*Mr. St. Victor to Mr. Powell.*

[Translation.]

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
*Port au Prince, August 7, 1899.*

MR. MINISTER: I have the honor to inform you that the Government of the Republic has charged me to inquire of you the persons who have been able to seek refuge at your legation.

I would be, in consequence, much obliged to you to let me know the names of those refugees.

Please accept, etc.,

B. ST. VICTOR,  
*Secretary of State for Foreign Relations.*

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*Mr. Powell to Mr. Hay.*

No. 623.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 14, 1899.*

SIR: I have fully stated in dispatch No. 613 of August 2, 1899, of the attempted arrest of Mr. U. Duvivier, and the events that led to it. I have yet to add in answer to Department's No. 358, of August 3, 1899, that Mr. Duvivier entered the legation without my consent, and I think without any intention on his part to do so. Seeing his life in danger he fled to the nearest place that would afford to him protection; happily for him, ours was the nearest. The officers of the Government, eager to effect his capture, in the heat of the moment forgot where they were, or that they were trespassers.

As soon as my request was made known to the President, General Sam, the man was returned to the legation, and an apology made for the act, which the Department has received before this. I am now awaiting further instructions.

The principal crime imputed to Mr. Duvivier, if crime it may be called, was an article that appeared in one of the papers here of which Duvivier was the author. In it he severely criticised certain military officers of the Government for the ruthless and arbitrary way, without cause for the most trivial offense, arresting without warrant innocent persons as enemies of the State; if they attempted to resist they were shot on the spot.

The article in question raised the ire of Gen. St. Fort Colon, in charge of the arondissement (district) which includes this city, by whose directions most of these arrests had been made. Duvivier was summoned to the office of this general. While there he was arrested—placed

in prison. His friends secured his release from prison. Hearing that at the trial an attempt would be made upon his life, he was only represented by a lawyer. He was condemned by the court to undergo imprisonment, and in addition thereto to pay a fine. As soon as he was informed of the judgment, he surrendered himself to the prison authorities and paid the fine. Upon his release the implacable enmity of this man followed him.

The strained financial situation gave to him another opportunity to attempt to wreak his vengeance. Duvivier, with others, was said to be implicated in a plot to overthrow the Government. An order was given for his arrest; if he resisted he was to be immediately shot. Happily for him the posse of soldiers, under the command of the general of La Place, charged with his arrest met him in front of our legation. Before they could place him under arrest he had reached inside the doors of the legation. From thence, as I have stated in previous dispatch, he was taken by force.

It is unnecessary to renarrate the scene of arrest, as the Department has ere this perused the same in previous dispatch. I have simply to add, prompt action on our part saved this man's and many other men's lives and may have prevented an uprising of the masses that would have left the greater part of the city in ashes. The foreign colony, especially our citizens, would have been the greatest sufferers. As the legation is in the central or business part of the city we would have suffered with the rest.

It is due to the President, General Sam, to state that many of the acts of these generals are unknown to him. He has up to this time resisted with firmness the pressure of the enemies of these imprisoned men to issue orders to have them executed. He has only incarcerated them in prison. The most prominent, I understand, will be exiled. This will be the case with all those who have sought asylum at the various legations. Mr. Duvivier's life will not be safe as long as the present military chiefs are in power, even though he should receive assurance of safety from the President.

We have two others in the legation, Gen. Cicero François, a former military officer under a previous government, and Seneque Pierre, an ex-member of the Senate. Arrests are still being made, but not to the same extent as a few days ago. Matters are generally quieting down, exchange is falling, and if the Government can solve the financial question which presses upon it it will remain in power; otherwise it must fall.

I have, etc.,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

No. 624.]

LEGATION OF THE UNITED STATES,

*Port au Prince, August 14, 1899.*

SIR: The right of asylum as understood here may differ from what the Department may understand the term. This or any previous Government does not desire to take away the right of asylum or of granting protection to political refugees assumed by all the legations and consulates. This is the only safeguard in this land of sudden

revolutions that the Government itself has—to-day it may be in hot pursuit after a political opponent, to-morrow it may be seeking protection for itself. No one knows when he retires at night that he will not be awakened before dawn by a volley of musketry, find the Government overthrown and the members thereof seeking protection at the several legations or at the consulates. For another reason they do not seek to disturb this right—they then know where the disaffected ones are to be found, and they can more conveniently send them out of the country.

Under my predecessors two of the Presidents have sought asylums at our legation. The present President at one time was compelled to seek safety by going to one of the consulates. The general that led the detachment of soldiers that entered our legation was but a few years ago a refugee therein. If the present Government was overthrown each member thereof would have to seek asylum or protection at some legation. The Department can thus see the members of the Government are not eager to close the avenue that means life to them. If such an event should occur during the present administration we would have more than we could well accommodate, as our quarters are limited.

None of the legations care for this extra responsibility. As long as the refugee is in the legation he must be provided with food and bed; the former of course must come from the purse of the minister. This extra expense he is compelled to bear without a murmur for humanity's sake.

Instructions as to course to be pursued in such events have seldom been given. The first was by Mr. Fish to Mr. Bassett, who had given shelter to General Canal, afterwards President of the Republic. Mr. Fish stated to Mr. Bassett that General Canal should be delivered to the existing Government. Mr. Bassett failed to follow this instruction and was censured. A few months thereafter the Canal party was successful and Canal became President.

The present instruction conveyed in dispatch No. 613, of August 2, 1899, is such that it will greatly simplify the action of our representatives at this post when such cases arise as that which lately occurred at our legation. These instructions are all that one needs and give all needed authority to act in the premises. I am glad the Department has taken this view.

I have, etc.,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

[Telegram.]

PORT AU PRINCE, *August 16, 1899.*

Haytian minister for foreign affairs states that this Government has decreed all refugees in legations to leave country by first steamer. Please send instructions.

POWELL.



*Mr. Adee to Mr. Powell.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 17, 1899.*

If any Haytian person sheltered in your legation is amenable to regular justice on a charge of crime or offense, you should notify him that he can not be longer sheltered against the order of expulsion. The Haitian Government has the right to expel its own citizens, and you can not shield them from the order simply because they happen to be your guests. You may shelter those under reasonable apprehension of lawless violence, but can not harbor an accused offender against Haitian law.

ADEE, *Acting.*

*Mr. Adee to Mr. Powell.*

No. 362.]

DEPARTMENT OF STATE,  
*Washington, August 17, 1899.*

SIR: I have to acknowledge the receipt of your No. 613, of the 2d instant, reporting the forcible removal from the United States consulate by Haitian soldiers of Mr. Ulrick Duvivier, who had taken refuge in the consulate. You further report that you demanded his return, and that the Government of Haiti acceded thereto.

This appears to end the acute stage of the incident. Mr. St. Victor's frank disavowal of the unwarrantable action of the soldiery in invading your domicile and his expression of regret therefor are appreciated.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

*Mr. Powell to Mr. Hay.*

No. 629.]

LEGATION OF THE UNITED STATES.  
*Port au Prince, Haiti, August 18, 1899.*

SIR: From the tenor of the cable received yesterday I think the Department is laboring under an error in regard to those who have sought shelter in our legation.

In the decree the Government does not cite these men to be guilty of any offense, either criminal or political, but simply notifies each legation that certain persons who have sought its protection must leave the country by first opportunity; the offense, if it can be called an offense, was in going to the legations for protection.

I do not deny the right of the Government to pass a decree of expulsion upon one or more of its citizens, or for them to assign or not to assign reasons for their expulsion, nor has my legation the right to request of them their reasons for so doing, it being a question in which they are the sole judge.

The facts, though, are simply these: The financial question here, as in Santo Domingo, is the principal cause for this state of affairs; their expenditures for the past few years have been greater than their rev-

enue. To meet the difference they have had to resort to loans at a high rate of interest, in some cases 24 per cent. No country, I care not how rich its resources may be, can long withstand such a rate; there can be but one result. Finding it impossible to secure further loans, having no guaranty to give, all their resources mortgaged in advance, the price of coffee falling in the markets of Europe, the natives or country people, receiving but little for that which they produced, refused to bring or gather it; exchange commencing to rise, until at one time it reached 225 per cent; the exports being curtailed, the imports necessarily were also limited. Importers not being able to meet this high exchange, could not meet their obligations, and had either to go into liquidation or retire from business. To add to the complications, its employees had been unpaid for months; the army, which is the mainstay of the Government, commenced to show signs of dissatisfaction.

The Government was bound to do something to arrest this discontent, repress this murmuring, and endeavor to restore confidence. The means it took was to cause the arrest of those that had criticised its course. The most prominent men were sought, arrested, and thrown into prison. Those that had private grievances and happened to be in power took advantage of the same and denounced their enemies as conspirators against the Government. Duvivier's case falls under this class.

These arbitrary arrests and stagnation in business have somewhat repressed these murmurs, for fear that the Government may resort to still more violent measures, so that to-day quiet, if not confidence, is restored, giving to the Government a breathing spell, as well as a chance to extricate itself from its present difficulties.

The Government has also been helped by the foreign bankers, who have loaned \$200,000 to meet their obligations for the present month. The receipts not mortgaged that will be due next month will be sufficient to meet the demand for September; but if the Government does not within this time adopt some measure for permanent relief October will see an uprising which will end in the violent overthrow of the existing Government, in which all classes will join. Such is the state of affairs.

Those who have sought our protection will leave by the next German steamer, on the 22d of this month, for St. Thomas, from thence to Kingston.

I inclose the correspondence on the subject.

I have, etc.,

W. F. POWELL.

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[Inclosure 1.]

*Mr. St. Victor to Mr. Powell.*

[Translation.]

REPUBLIC OF HAITI,  
DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
*Port au Prince, August 16, 1899.*

MR. MINISTER: My honorable colleague, the minister for the interior, having notified me by his dispatch, of date of the 14th instant, No. 145, the decision of the Government relative to the embarkment by the first occasion for foreign country of all the individual refugees in the legation and consulates, I have the honor to transmit

to you that decision in that which concerns Messrs. Ulrick Duvivier, Ciceron François, and Seneque Pierre, who have taken refuge at your legation.

Please accept, etc.,

B. ST. VICTOR,  
*Secretary of State for Foreign Relations.*

[Inclosure 2.]

*Mr. Powell to Mr. St. Victor.*

No. 293.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 18, 1899.*

SIR: I have your favor dated August 16, in which you inform me of a decree of your Government concerning certain gentlemen who have requested the protection of our legation, that they should debark from the city by the first occasion.

Accept, etc.,

W. F. POWELL.

[Inclosure 3.]

*Mr. Powell to Mr. St. Victor.*

No. 294.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 19, 1899.*

SIR: Agreeable to the request made by your Government that the gentlemen who have sought protection at our legation should depart on the first steamer that should leave this port, these gentlemen will depart on the German steamer which leaves to-day.

Accept, etc.,

W. F. POWELL.

*Mr. Hay to Mr. Powell.*

No. 363.]

DEPARTMENT OF STATE,  
*Washington, September 1, 1899.*

SIR: Your dispatch No. 623, of the 14th ultimo, in relation to the case of Mr. Duvivier, the circumstances of whose arrest by armed force within the precincts of your official dwelling and return to your keeping upon your demand have been previously reported and are now again circumstantially recited by you, has been received.

You say that you are awaiting further instructions in the case.

The Department's instructions, No. 358, of August 3, attempted to lay down general principles for your guidance in the event of a demand being made upon you, under warrant of regular judicial proceedings, for the withdrawal of the shelter you have afforded this man. Your later telegram, of August 16, indicates that no proceedings are or will be instituted against Duvivier, but that he comes within the reported decree of expulsion. If this be so, the Acting Secretary's telegram to you of August 17, by which you were told that you could not shelter Haitian citizens from the order of expulsion simply because they happened to be your guests, appears to give you all necessary direction in the premises.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Powell.*

No. 364.]

DEPARTMENT OF STATE,  
*Washington, September 1, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 624, of the 14th ultimo, in which you comment upon the practice of so-called asylum in Haiti.

The observations you make to show the influence of this vicious practice in virtually inviting conspiracies against the established rule, and begetting a feeling of security in the minds of would-be conspirators, is quite in the line of what has been often said in the past by successive Secretaries of State, as you will see by reference to section 104 of Wharton's International Law Digest. Mr. Fish wrote in 1870 to your predecessor, Mr. Bassett:

Among other objections to granting such asylum it may be remarked that that act obviously tends so far to incite conspiracies against governments that if persons charged with offenses can be sure of being screened in a foreign legation from arrest, they will be much more apt to attempt the overthrow of authority than if such a place of refuge were not open to them.

Mr. Evarts, writing to Mr. Langston in 1874, said: "The conspirators of to-day may be the government of to-morrow."

So, too, Mr. Langston, writing from Port au Prince, April 10, 1878, aptly remarked:

It is surprising to witness the readiness and assurance with which a defeated revolutionist approaches the door of such places, demanding, as a matter of right, admission and protection. And before the revolutionary attempt is made, when the probabilities of success or defeat are being calculated, this protection in case of defeat is regarded and accounted as sure, and by this means refuge and escape are sought and gained. Exile is regarded as the only possible infliction, and this tempered by that sort of care which results from diplomatic and consular interest and assistance. (Foreign Relations, 1878, 444.)

The Department is glad that you find in its instruction No. 358 "all needed authority to act in the premises." You should not, however, confine yourself to observance of that one instruction, which may not fit the particular circumstances of a particular case arising, but you should study and be governed in any applicable instance by the voluminous instructions of my predecessors, to be found on the files of your legation. They not only lay down the general principles involved with especial fullness, but they cover a larger field of varying conditions than those sent to any other country, inasmuch as with no other government have more numerous, intricate, and vexatious questions of abusive "asylum" arisen than with Haiti.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Powell.*

No. 365.]

DEPARTMENT OF STATE,  
*Washington, September 2, 1899.*

SIR: I have received your dispatch No. 629, of the 18th ultimo, reporting the departure on that day, by the German steamer, of the three persons to whom your legation had afforded shelter during the recent political troubles in Port au Prince.

You remark, in this relation, that Messrs. Duvivier, Cicéron, and

Seneque had not been accused of criminal or political offense, but that their offense, if any, was in going to the legation for protection.

The Department does not so understand the situation. It is a right of sovereignty, more or less regulated by the constitution or law of the State, to expel from the national territory any citizens or subjects whose presence may be deemed to imperil the public good. The men in question appear from your statements to have been political suspects in this sense, and as such to have taken refuge in your dwelling to escape pursuit. On several occasions in the past your predecessors have exceeded their legitimate rights and functions in demanding and obtaining for this class of persons, natives of the country, permission to quit the territory unmolested—a practice which the Department has uniformly condemned. In this instance the Haitian Government seems to have anticipated some such demand on the part of the foreign representatives, and to have either ordered or permitted—it is not clear which—the departure of the refugees.

I am, etc.,

JOHN HAY.

*Mr. Powell to Mr. Hay.*

No. 648.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, September 5, 1899.*

SIR: I respectfully inform the Department, as I was about to embark those who have sought asylum in our legation, in accordance with the instructions from the Department and the request made to us by the Government, the minister of foreign affairs, Mr. St. Victor, called and delivered an oral request from the President that I would retain these gentlemen a few days longer.

I have done so. After waiting a period of two weeks and receiving no information from the Government as to its intentions, I addressed a letter to the minister of foreign affairs requesting information as to what the Government proposed to do. I received in reply a dispatch stating to me the decision of the Government, with a request that they leave by the first opportunity.

I have arranged for these persons to leave this legation on the 6th of September by the French Trans-Atlantic Line for Santiago, Cuba, at which place they will take passage for Kingston, Jamaica. I shall inform the Government prior to their departure.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

*Mr. Powell to Mr. St. Victor.*

No. 298.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 30, 1899.*

SIR: Agreeable to a request from His Excellency the President, I detained the gentlemen who are in the United States legation, as they were about to embark for St. Thomas, in accordance with a notification from your office. The request that was conveyed to me, that it was the desire of His Excellency that I should allow them to remain a few days longer, at the expiration of which time they would be allowed to return to their respective homes with a guaranty of safety from the Government.

Since that time I heard nothing in regard to the intentions of the Government.

The few days have grown into weeks and His Excellency is still silent as to what he intends to do.

I therefore request that His Excellency inform me, Are the gentlemen in my legation to be permitted to return to their homes with a guarantee of safety from the Government? Otherwise I shall send them away by first steamer. I request an answer, as I shall leave early next week for the United States.

Accept, etc.,

W. F. POWELL.

[Inclosure 2.]

*Mr. St. Victor to Mr. Hay.*

[Translation.]

REPUBLIC OF HAITI,  
DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
*Port au Prince, September 2, 1899.*

MR. MINISTER: I have the honor to acknowledge the receipt of the dispatch of August 30 last, by which you announce to me that in case it should not be permitted to the Haitian citizens that have sought asylum in your legation to return to their hearths you would induce them to leave by the first steamer.

In thanking you for that communication I have not failed to submit it to my colleague of the department of the interior. I hasten to inform you that the Government of the Republic has taken the decision to embark those refugees on the French packet boat that will leave this port the 13th of this month.

Please accept, etc.,

B. ST. VICTOR,  
*Secretary of State for Foreign Relations.*

[Inclosure 3.]

*Mr. Powell to Mr. St. Victor.*

No. 301.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, September 2, 1899.*

SIR: I have the honor to receive your favor of this date, informing me that it is the decision of your Government that those who have sought refuge at the several legations shall leave the country by first opportunity, requesting of me that I comply with the decision of your Government.

In answer to your request, I will see that the gentlemen who have sought asylum within the legation of the United States shall leave the country by the first opportunity. The date of departure, name of vessel, and destination I will inform you when fully made.

Accept, etc.,

W. F. POWELL.

[Inclosure 4.]

*Mr. Powell to Mr. St. Victor.*

No. 302.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, September 4, 1899.*

Sir: In compliance with your request dated August 16, 1899, that your Government requested those persons who have sought asylum in this legation "should leave by first steamer." In conformity with that request, these gentlemen will leave on the 7th of September, by the French Trans-Atlantic Line, for Santiago, Cuba.

Accept, etc.,

W. F. POWELL.

*Mr. Adee to Mr. Terres.*

No. 368.]

DEPARTMENT OF STATE,  
*Washington, September 15, 1899.*

SIR: I have Mr. Powell's dispatch No. 648, of the 5th instant, in further relation to the question of the expulsion from Haiti of certain refugees sheltered by your legation.

It seems that after Mr. Powell had notified the Haitian Government that he was prepared to withdraw protection in respect to the refugees whose expulsion had been ordered by the Haitian Government he was orally requested, by a message from the President, that he would retain those persons a few days longer; that after waiting two weeks and hearing nothing further on the subject, he requested the minister for foreign affairs to inform him whether the gentlemen in his legation were to be permitted to return to their homes with a guaranty of safety from the Government, and notified Mr. St. Victor that otherwise he, Mr. Powell, would send them away by the first steamer.

This would seem to indicate an alternative proposition by Mr. Powell, either that the refugees should be pardoned and permitted to go to their homes in Haiti or that if this were not done he, Mr. Powell, would himself deport them from Haiti.

It is not thought that either of these propositions was intended by Mr. Powell. Fortunately, no occasion for discussing his intent in this regard has arisen, inasmuch as Mr. St. Victor, in reply, on the 2d of September, hastened to inform Mr. Powell "that the Government of the Republic has reached the decision to embark these refugees upon the next steamer leaving" the port.

A new phase of the question, however, is presented by Mr. St. Victor's further request that Mr. Powell would carry out (*y donner suite*) the decision reached by the Haitian Government, in reply to which Mr. Powell informed Mr. St. Victor, September 2, that he would "see that the gentlemen who have sought asylum within the legation of the United States shall leave the country by first opportunity," and would inform him of the date of departure, name of vessel, and destination.

The Department's previous instructions will show that it was here held that the order of expulsion was not executable by the minister of the United States. My telegram of the 17th of August was explicit in directing Mr. Powell to inform the refugees that he could not protect them against the order of expulsion. By this was meant that Mr. Powell should withdraw his protection and request the refugees to leave his premises. It was certainly not intended that he should see that they left the country by the first ship, or make arrangements for their departure, or become in any way responsible for their deportation in the manner suggested by his note to Mr. St. Victor of September 2.

It is hoped that Mr. Powell will be able to make the attitude of the United States in this regard clear to the Government of Haiti, and to remove any impression which may exist in the mind of that Government that it was any part of the duty of the minister of the United States in that country to participate in the execution of the order of expulsion.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Powell to Mr. Hay.*

No. 659.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, November 14, 1899.*

SIR: I have the honor to acknowledge dispatch No. 364, of September 1, concerning the right of asylum. Though the incident to which this dispatch alludes is closed, I trust the Department will bear with me in replying to a portion of the subject-matter of the same.

The Department does not recognize the peculiar state of affairs that exists in this Republic; no set rules that would apply to any other country can be literally followed here.

These people are of a mercurial temperament, easy to take offense, and proud and sensitive; they are naturally jealous of what they think are certain rights that pertain to them, or of the interference of a foreign power in their affairs.

This "right of asylum," as they claim, has become almost an absolute law to them; the National Government recognizes it. Many of those now in power have in the past few years been refugees in this or some of our sister legations. This assumption on their part is not of recent date, but has existed for nearly seventy years—long before Haiti was recognized by our Government as an independent power.

This question of "asylum" has been one of the principal questions which the Department has been called upon again and again by each of our representatives, with the exception of Mr. Durham, to decide. During the time that gentleman filled the office the country was in a state of tranquillity. Notwithstanding the instructions of the Department, not one of my predecessors has been able literally to carry out its instructions, and I am forced to add that it will be impossible for my successors to act differently from the course pursued by their predecessors as long as the other legations accredited here receive and protect those that come to them in such emergencies. Mr. Evarts, in his instructions to Mr. Langston, aptly and tritely states the situation as it exists here, "that the conspirators of to-day may be the government to-morrow."

I feel that the Department must trust to the discretion of its representative as each emergency occurs. I do not desire to be understood that it is the duty of your representative to shield or give protection to those that seek to introduce anarchy, or those that attempt to overthrow the existing Government, or to come between the Government and its citizens—all such persons should be made to pay the penalty of their acts—nor do I wish to be understood that your representative is to constitute himself the judge in such matters. His first duty should be to bring all the facts, without comment, to the immediate attention of the Department and await instruction, especially if the case be such that previous instructions to his predecessors will not cover the case.

To absolutely refuse to succor an individual that may seek his protection is simply to invite upon himself not only this man's enmity but that of his friends also. In the event of his friends becoming the ruling factors in the Government, the very first step would be a request that such a representative be recalled, as his presence would mar the cordial feeling between the two Governments, though he had only followed the instructions conveyed to him by the Department. Such a request the Department would be compelled to heed, the representative



would be recalled, and a stigma rest upon his official life for all time which he could not remove. This is the unpleasant feature connected with this state of affairs. Again, under present instructions, if the officials of the Government should seek refuge in our legation from those that attempted to overthrow them, we could not, without violating the instructions of the Department, receive them. Again, I fear the Department fails to observe this fact: A refugee comes to us, asks protection; we refuse to extend it to him; in return he refuses to leave our premises. Are we to use force to compel him to leave? We can not ask the Government to aid us. That would violate the sanctity of our legation. Here is another phase of this question on which I would like the Department to instruct me.

This question of asylum bears hard upon every legation, as when a man secures asylum it is at the expense of each representative to provide him with food from his table, as well as shelter, which must be met and defrayed from the personal funds of the representative, which I can assure the Department in the case of the present incumbent is inadequate to meet the same.

I would be glad if this question could be settled in such a way that would not reflect upon those that may fill the office of your representative. There is but one solution to this question, I think, and that is for each legation to absolutely refuse to shelter anyone but members of the Government in case of a revolution only.

Pardon me for the valuable time I have taken in calling your attention to this matter and the difficulty that surrounds it in following the given instructions of the Department.

I have, etc.,

W. F. POWELL.

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*Mr. Powell to Mr. Hay.*

No. 660.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, November 15, 1899.*

SIR: I have the honor to reply to Department's dispatch No. 368, of September 18, 1899, addressed, in my absence, to Dr. J. B. Terres, the vice-consul-general, in reference to the expulsion of certain refugees who had sought shelter in our legation. Dr. Terres, not being conversant with the facts, preferred the dispatch should remain unanswered until my arrival.

From the tenor of this dispatch, I find the Department is laboring under the impression that I have interfered in the execution of certain decrees of the Government and been a factor in assisting it to execute its laws upon its citizens. I therefore state for the information of the Department all the facts connected with the case and my action in the premises.

It is unnecessary for me to renarrate the facts pertaining to the arrest of Mr. Ulrick Divivier; these the Department is in possession of, in dispatches Nos. 613, of August 2, 623, of August 14, and 648, of September 5. On the evening following Mr. Duivivier's attempted arrest, Mr. Solon Menos, a former minister of foreign affairs, came to our legation, requesting our protection; the same evening Gen. Cicerone François applied; the following day Seneque Pierre, a former senator, made the same request; others applied, but because of our limited quarters we could not grant their requests. These men afterwards

applied to the other legations and were received. Mr. Menos received a letter from the President granting to him the liberty to return to his home, guaranteeing the fullest protection.

After these gentlemen had been with us two weeks, a note was received by each of the foreign ministers who had given shelter to these persons, that they must leave the country by first steamer. This note was sent from the foreign office, bearing the signature of Mr. Brutus St. Victor. The French minister immediately called upon Mr. St. Victor, the minister of foreign relations, representing that some of the persons in his legation had not the money to leave the country by the steamer then due. As soon as I received the note from Mr. St. Victor I informed the gentlemen who were with me of the decision of the Government that they would have to leave at the time named. They commenced to make preparation for their departure. On the day they were to sail Mr. St. Victor called with a request from the President that I would retain them a few days longer; at the time he privately stated to me that he did not think they would have to leave the Republic.

After waiting two weeks, and the time nearing when my leave of absence was to take effect, I addressed a note to the foreign secretary in regard to the length of time they were yet to remain with me, stating at the time that if I did not hear from him I should act upon the request as first made and they leave by first opportunity. In reply the foreign minister named a day requesting they leave at that time. A similar note was addressed to the French and German ministers.

As soon as the latter request was received, it was made known to the gentlemen that were with me, and word was conveyed to the agent of the French line to secure passage to Santiago, Cuba. On the day of their departure our deputy consul, Mr. Battiste, at my request, accompanied them to the boat that was to convey them to the steamer, the French minister conveying those at his legation in his carriage to the boat and went with them to the steamer, those at the German legation being sent under the protection of the German minister to the French legation. An hour after the departure of the gentlemen that were with me I left by steamer for New York.

The course that I have pursued in this case has been that which has been followed by my predecessors and by every legation here. I have assumed no responsibility in their embarking, except so far as to have the agent of the company meet them at the legation to procure their tickets, which they could not do themselves. The instruction of the Department was carried into effect as soon as possible.

The Department is unaware of the fact we can not always carry into execution instructions as given. We can request a refugee to leave our premises, but if he refuses to do so, we must either use force to compel him, or else request the Government to assist us to pursue such a course. I am aware the Department would seriously object.

The Government of Haiti has not the impression, the Department thinks, that it is the duty of your representative to participate in the execution of the order of expulsion, nor would I accept such an order from this Government.

Allow me also to state in this connection that the shelter often given to these refugees is at times a great help to the Government itself. Heated passions are allowed to cool, and the Government is able to extricate itself from a serious dilemma, though at the expense of the

several legations. This, in fact, was the case of the refugees that were with us. They started for Santiago, but the military authorities refused permission for them to land. They had to return here and left for St. Thomas. After their departure, the Government found the charges made against them to be false. Passports allowing them to return were sent. Some have availed themselves of them and returned; others preferred to remain away.

I have, etc.,

W. F. POWELL.

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*Mr. Hay to Mr. Powell.*

No. 384.]

DEPARTMENT OF STATE,  
*Washington, December 6, 1899.*

SIR: I have to acknowledge the receipt of your No. 659, of the 14th ultimo, relative to the right of asylum in Haiti. In reply I have to say that in view of the peculiar situation in that Republic and the varying circumstances of each case the only safe course would seem to be to bring all the facts to the immediate attention of the Department and await its instructions.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Powell.*

No. 385.]

DEPARTMENT OF STATE,  
*Washington, December 7, 1899.*

SIR: I have to acknowledge the receipt of your No. 660, of the 15th ultimo, relative to the Duvivier incident. In reply I have to say that in view of your assurance as to the understanding of the Haitian Government concerning the attitude of the United States and the legation toward the expulsion of the refugees sheltered by the legation, the Department is content to allow the matter to rest upon its instruction No. 368, of September 15 last, and your present dispatch.

I am, etc.,

JOHN HAY.

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**STATUS OF HAITIANS, DESCENDANTS OF EMIGRANTS FROM THE UNITED STATES.**

*Mr. Powell to Mr. Hay.*

No. 621.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 14, 1899.*

SIR: I inclose a communication addressed to Dr. Terres, the vice-consul-general, from Mr. Charles Miot, the United States consular agent at Gonaives.

The facts are, on Sunday, August 13, 1899, General Prudo, of the arrondissement of Gonaives, impressed into the Haitian army two young men, one by the name Julian Guillaury, the other a son of Ch. Black. The fathers of these young men claim to be American citizens. The young men impressed, though, were born in Haiti.

General Prudo was written to and informed they were American citizens and were released. I call attention to that portion of Mr. Miot's letter referring to the registering of Americans in that district.

Mr. Miot informed me that the parents of these young men had not returned to the United States for many years, their sons had not been there at any time, nor had they been registered at the consular agency.

In order that the Department may be fully informed in regard to this class of cases, about 1824 this Republic extended an invitation to settlers to take up their abode here, granting to them a certain amount of land. Many residing in Louisiana accepted the offer of the Republic and emigrated. In 1845 there was another large immigration here. This also was principally from the Gulf States. Another large immigration took place in the years 1861, 1862, and 1863. These people came from the northern tier of the Southern States, with a few from the Middle and New England States. The early immigrants settled either here or at Gonaives; those of a later period at Les Cayes, also called Aux Cayes, and other parts of the Republic.

I have, etc.,

W. F. POWELL.

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[Inclosure 1.]

*Mr. Miot to Mr. Terres.*

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,  
St. Marc, August 11, 1899.

SIR: I have the honor to make you know the little incident that gave birth to the two telegrams I showed you at Port au Prince.

Last Sunday they were beating up for soldiers. Two young men, one the son of Julian Guillaury and the other the son of Ch. Black, were taken and put in prison to be incorporated. The two fathers, who are Americans, came to this consulate complaining about the fact. My son, Em. Miot, wrote to General Prudo, commandant of this arrondissement, who put the two men at once in liberty.

But General Prudo used to consider them as Haitians, as they were born here and have never made any declaration that could make them known as American citizens.

It would be good to take the names of all Louisianians and children and make them declare if they intend to be American or Haitian citizens, so that I might know how to do with them in future.

I am, etc.,

CHARLES MIOT.

Mr. J. Guillaury brought me his papers, by which I see that he is really an American citizen. Ch. Black has no papers.

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[Subinclosure.]

*Mr. Miot to General Prudo.*

ST. MARC, August 6, 1899.

GENERAL: I come by the present to beg you to kindly set at liberty the sons of Ch. Black and that of J. Guillaury, both American subjects, arrested this morning and committed to prison.

With the hope that my request will find a good welcome, I beg you to accept, etc.,

EM. MIOT,  
United States Consular Agent (ad interim).

[Inclosure 2.]

*Mr. Powell to Mr. Miot.*

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 14, 1899.*

SIR: Your letter to the vice-consul-general, Dr. J. B. Terres, in regard to the impressment of certain American citizens into the military service and their subsequent release has been handed me.

In reply to your request as to registering those from Louisiana who emigrated from there, I have referred the matter to the Department. My own opinion is that when they accepted the terms of the Government it was with the understanding they should become citizens. I will be glad if you will furnish me this necessary information:

First. When did they come to Haiti; that is, the year? Did they accept the offer made about this time?

Second. Have they at any time since their arrival here returned to the United States?

Third. Do they now intend to return? Have they had their children, when born, registered in your consulate?

Respectfully, etc.,

W. F. POWELL.

*Mr. Powell to Mr. Hay.*

No. 622.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, August 14, 1899.*

SIR: It has been the custom of some of my predecessors, so I have been informed, to issue to certain Americans residing in this Republic certain papers or permits showing that they were American citizens.

Since the recent troubles application has been made to me by Antoine Phelps, aged 34, and Emanuel Phelps, aged 30, for such permits. I have refused, stating I would refer the matter to Mr. Hay, the Secretary of State, for instructions.

I have refused to grant such papers for the following reasons:

First. The right to grant such papers, or to declare who are American citizens, rests alone with Congress, or in the courts of the United States. This power is not delegated to the representatives of the United States, the only paper of an official character upon this subject being the passport.

Second. I do not believe the parties applying for them are entitled to the same. One is 34 years old, the other 30; both were born in Haiti, though their parents are American citizens, having come to the Republic about the year 1824. The applicants themselves have never been in either of the States, nor have they any intention of going. At the time of their birth they were not registered, nor has either since obtaining his majority shown any inclination to register him as an American citizen.

To evade the laws of the country they claim to be American citizens and desire certain papers to show this fact. Such papers, I think, they are not entitled to.

I therefore request the Department to inform me if papers entitling them to the rights of American citizens should be issued to them.

I have, etc.,

W. F. POWELL.

[Inclosure.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Port au Prince, Haiti, May 17, 1869.*

*To whom these presents may come, greeting:*

This is to certify that from proof to me furnished Pierre Phelps is a citizen of the United States and entitled to all the rights of American citizens residing abroad. Given under my hand and official seal the day and date above written.

[SEAL.]

E. H. HOLLISTER,  
*Minister Resident and Consul-General of U. S. A. at Port au Prince, Haiti.*

Presented and viséed at this legation this 30th day of October, 1869.

EBENEZER D. BASSETT,  
*Minister Resident of the United States, near the Government of Haiti.*

*Mr. Powell to Mr. Hay.*

No. 644.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, September 2, 1899.*

SIR: I called the attention of the Department, in dispatch No. 621, dated August 14, to the impressment of two Americans into the Haitian army. They were released at first, but have afterwards been placed or enrolled.

From the investigation made I find the parents have for the past thirty years been considered as Haitians; they have not returned to the United States and do not intend to return. The sons are of age, and have expressed no desire to become or to register themselves as American citizens. In view of the facts before me, I do not feel warranted to act in their behalf, except by instructions from the Department.

I inclose certain letters bearing upon the case.  
 I have, etc.

W. F. POWELL.

[Inclosure.]

*Mr. Miot to Mr. Powell.*

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,  
*St. Marc, August 29, 1899.*

SIR: I received your dispatch of the 14th instant, and take notice that you referred to your Department about our Louisianians. I told Mr. Guillaury to let his son do what they ask from him until I receive instructions. In answer to the questions you ask me, I will tell you:

1. That all the Louisianians came in the year 1860 with the immigration of President Jeffrard.
2. They say that they did not accept the offer made at that time.
3. They never returned to the United States. The young Guillaury says that he would go to the United States if he could.
4. None of the children had been registered at the consulate when born.

Mr. Julian Guillaury, the father, has all his papers in good order. He has:

1. A certificate of the mayoralty of New Orleans, 1860.
2. A passport under his name to come to Haiti.
3. A certificate dated September, 1889, from my predecessor, authenticated by Mr. John W. Thompson, consul-general at Port au Prince.

I remain, etc.,

CHARLES MIOT.

*Mr. Hay to Mr. Powell.*

No. 366.]

DEPARTMENT OF STATE,  
*Washington, September 2, 1899.*

SIR: Your dispatches Nos. 621 and 622, both dated the 14th ultimo, in relation to the status and liability to military service of certain persons who claim registration as citizens of the United States, have been received.

It appears that the persons you describe are either persons who have emigrated from the Southern States of the Union as settlers in Haiti under grants of land, or the children of such settlers born in Haiti.

It therefore becomes pertinent to ascertain, if possible, whether the grants to these colonists were conditioned upon the assumption by them of full or qualified Haitian allegiance. Such a condition is common in grants of land to immigrant settlers. If these persons immigrated to Haiti and took up land under a contractual tenure, whereby they shared in the political concerns of the Republic, that circumstance would, *prima facie*, establish an adoption of a new status and an abandonment of their original status, which would operate to give their children born in Haiti the character of Haitian allegiance, but to what extent, if at all, would depend upon the terms of their grants.

Assuming, however, that the immigrants held their lands under conditions which left their American citizenship unimpaired, they and their children would have enjoyed the right to protection, qualified by their ability to show that their residence in Haiti was of a temporary character and that they have in good faith held, and now hold, the fixed purpose to return to the United States, here to dwell and perform the duties of citizenship. The facts in each individual case would determine the title to receive a passport as evidence of the right to continued protection while sojourning in an alien land.

Your No. 622 reports two individual applications of persons who are supposed to belong to the classes you describe in your No. 621. The applicants, Antoine Phelps and Emanuel Phelps, are stated by you to be, respectively, 34 and 30 years of age, both having been born in Haiti of American parents who went thither in 1824. Neither of them was registered at the time of birth, or has at any time been in the United States, or has shown since attaining majority any purpose to come hither. The only evidence they present of their American character is a certificate, given by your predecessor, Mr. Hollister, in 1869, to one Pierre Phelps, whose relationship to the applicants is not stated, while their present application appears to be for some form of permit which will enable them to continue to reside in Haiti exempt from all burdens of such residence.

Under the reported circumstances you are not authorized to grant to the persons named a passport, which, as you correctly suggest, is the only certificate of citizenship which you are authorized to grant in any case.

A fuller report from you on the subject presented in your No. 621 is awaited.

I am, etc.,

JOHN HAY.

*Mr. Adee to Mr. Terres.*

No. 369.]

DEPARTMENT OF STATE,  
*Washington, September 16, 1899.*

SIR: I have to acknowledge the receipt of Mr. Powell's No. 644, of the 2d instant, in regard to the impressment into the Haitian army of certain persons claiming to be United States citizens.

In reply I have to say that the report called for in the Department's No. 366, of the 2d instant, is awaited.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Powell to Mr. Hay.*

No. 661.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, November 16, 1899.*

SIR: I have the honor to reply to Department's No. 366, of September 2, and No. 369, of September 16, addressed to Dr. Terres, requesting further information as to the status of certain persons who claim registration as citizens of the United States, and as a result of such statement exemption from Haitian military service.

The class of persons to which I referred in dispatches Nos. 621 and 622, of August 14, were those that emigrated here upon an invitation of the Haitian Government that grants of land would be given them, providing it was their intention to become citizens of Haiti. Under this invitation many emigrated from the United States, principally from the Southern States, and made Haiti their home.

In reference to this particular incident referred to in the dispatches named above, the parties that claim exemption from military service were among that class of persons who received grants of land from the Haitian Government upon their becoming citizens.

I inclose an extract bearing upon this copied from their archives, and a copy of the law bearing upon this subject.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

[Extract from Haitian archives bearing upon emigration.]

PORT AU PRINCE, *March 26, 1860.*

We are desirous to receive amongst us all men of African origin who are willing to share our fortunes.

The reception given at St. Marc to 120 emigrants from Louisiana is a proof of the good will of the country people as regards these persons.

When they arrive here they will find, either to lease or to buy from the Government or private parties, fertile lands of a reasonable price. For persons unacquainted with the country, and who have studied its peculiarities, the system of leases is not to be despised, the very small annual charge being no obstacle to the prosperity of their labors. Besides, the Government is authorized by law to sell all national lands. They possess a great extent of land in different parts of the country, and will always place their lands at the disposition of the emigrants. The mode of sale imposed upon them by law in this case is for cash. In certain quarters these properties are sufficiently extensive to allow of the settlement of 100 families or more.



Permission will be granted to emigrants to buy land on their making the declaration that they wish to become Haitians and on their renouncing every other nationality.

Our law authorizes the formation of two sorts of companies, copartnerships, which do not need any preliminary authorization; and joint-stock companies, whose statutes would have to be submitted to the Government for their approval. It determines the conditions on which they exist and their mode of action. Under the control of this legislation companies could be formed either for exploring the mines or for the establishment of manufactories, and the Government would look very favorably on all serious undertakings of this sort.

The Government can not bind itself to the adoption of a protective tariff. Manufactories would, however, have a sufficient guaranty in our actual tariff, whose mean rate for the last twenty years has been 20 per cent upon the value of goods imported. As our fiscal legislation derives its principal revenue from the customs duties, it is not to be supposed that the existing system will be given up for a long time to come.

We have no law on patents. The principle, however, exists in our civil law as regards literary property, and might, if need be, be developed so as to afford protection to inventions.

Though the law of the national guard prescribes a monthly review thereof on every first Sabbath in the month, measures would be taken not to disturb the conscientious scruples of the members of those churches which forbid such a use of that day.

The sons of emigrants destined to a religious career will be exempt from military service. There will be no exception made in the case of those who may be engaged in secular pursuits or professions.

Provisions of all kinds being always to be had in abundance, there is no need of dispensing with the payment of the customs duties on provisions for the use of those who may arrive.

Machines, agricultural implements, and personal effects will be allowed to be brought into the country free of duty. There can be no exception made to the general rule in such cases as regards the disposal of produce by the emigrant.

The Government will engage to provide remunerating labor for honest and able, but poor, laborers who could not immediately purchase property. This they would do, either by means of leases or partnerships, or by placing them in such situations as, by economy and good conduct, they could in a few years become proprietors.

Lands for schools and chapels would be given by the State.

The emigrants would not be compelled to come to Port au Prince, but could go directly to that part of the country which they would choose.

They would, after the settlement of a year and a day in the Republic, enjoy all the privileges of Haitian citizens.

To make it easy for those needy persons of African origin who would wish to emigrate to Haiti, the Government has decided, since last year, to pay their passage at the following rates:

Fifteen dollars Spanish for every able-bodied man and woman; \$8 for children under 12 years of age and for aged persons above 60.

It is well to make known the contracts which are usually made in this country between agricultural laborers and proprietors. The proprietors give the land and necessary implements, the others cultivate the land and dispose of the produce. This is divided equally between the proprietor and the cultivator. The emigrants might enter into such agreements if they saw fit to do so.

The Government will always respect the religious belief of the emigrants no matter to what Christian sect they may belong. They will never be called upon to defend the Roman Catholic religion, whether they follow it or not.

The present Government, in its earnest desire to spread knowledge among the people, has founded and will yet found a number of primary schools. In these establishments instruction is given cheap, and even gratuitously, to certain children. The children of emigrants will enjoy in this respect the same privileges as Haitian children.

Our laws do not take away from anyone power to leave the country when he pleases. Nevertheless, the Haitian who abandons his country in times of imminent danger loses forever the right of citizenship. Those emigrants who do not care to remain in Haiti will be free to go back again. Those, however, whose passage the Government may have paid will not be able to leave the country until after three years' residence.

These, sir, are the communications which I am commissioned to make to you.

FS. JN. JOSEPH,  
*The Secretary of State, of the Interior, and of Agriculture.*

[Inclosure 2.]

*Law on the immigration into the country of persons of African or Indian race.*

Fabre Geffrard, President of Haiti, by the advice of the council of the secretaries of state, has proposed the following law:

ARTICLE 1. After the promulgation of the present law five carreaux of land will be granted, free of all charge, to every family of laborers or cultivators of African or Indian race who shall arrive in the Republic. This grant will be reduced to two carreaux when the laborer or cultivator is unmarried.

ART. 2. These grants will be delivered, without expense and with a provisional title, to every family that shall have made before the proper magistrate the declarations prescribed by law to the end of obtaining naturalization, and they will be converted into final grants after a residence of a year and a day in the country.

ART. 3. The final grants will be given in exchange for the provisional grants only when it shall have been ascertained by the Government agent that cultivation has already commenced on the property granted.

ART. 4. The grantee shall not have the power to dispose of his grant before the expiration of seven consecutive years of occupation. Nevertheless, he will be able to obtain the authority to exchange his grant for another property, but only on the conditions, terms, and with the provisos above named.

The present law shall be promptly executed by the secretary of state, of the interior, and of agriculture.

National Palace of Port au Prince, the 1st September, 1860, year fifty-seventh of independence.

GEFFRARD et al.

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*Mr. Hay to Mr. Powell.*

No. 382.]

DEPARTMENT OF STATE,  
Washington, December 1, 1899.

SIR: I have to acknowledge the receipt of your dispatch No. 661, of the 16th ultimo, with which you communicate, in compliance with the Department's instructions, further information as to the status of the persons, landholders in Haiti, who claim United States citizenship and exemption from Haitian military service.

As the immigration of the persons in question and the acceptance by them of a land grant from the Haitian Government appears to have been expressly conditioned upon their becoming citizens of Haiti, the transaction must be regarded as a voluntary contract whereby the immigrant settler renounced his American citizenship and became merged in the body politic of the Haitian Republic.

You will test each individual case by this rule and act accordingly, withholding the passport if the fact of the acquisition of Haitian citizenship appear.

I am, etc.,

JOHN HAY.

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**FOREIGNERS IN HAITI REQUIRED TO PROCURE LICENSE TO DO BUSINESS.**

*Mr. Powell to Mr. Hay.*

No. 640.]

LEGATION OF THE UNITED STATES,  
Port au Prince, Haiti, August 29, 1899.

SIR: The subject of license I am compelled to call the Department's attention to again. I thought this question was finally adjusted and

settled for the future. During the time I was away last year the Chambers passed a law compelling every foreigner in business that they should make application to the President on a certain stamped paper and pay \$5 for the same.

On my return the matter was presented to me. I immediately protested to the foreign minister, Mr. St. Victor, and also reported my action to the Department \* \* \*. The Department in its reply \* \* \* sustained my action. I informed the secretary, Mr. St. Victor, that the enforcement of such regulations was in conflict with certain rights granted us under the treaty, that we should pay no higher tax than Haitians in the same business.

In a personal interview with the secretary, held afterwards, he stated he was willing to concede this and promised to inform me later in writing. After waiting some little time, not hearing from him, I requested another interview, which was accorded me. At that interview he stated that he would accord to our citizens the rights claimed for them and that he would enter into a private agreement in regard to it, in order that my colleagues of the German and French legation should not demand the same concession. Before this action was communicated to me in writing the present financial difficulties took place.

I have waited to receive his answer; not receiving one, I called upon him to-day and requested a definite reply as to the purpose of the Government toward our citizens in regard to the patents for the coming year (October 1). As usual, a request was made for delay. I informed him that this extra assessment for patents would not be paid by Americans in business; that I would send him a list of our citizens that were thus engaged, to whom I requested that licenses or patents be issued upon the payment of the same sum as paid by Haitians in similar enterprises.

He agreed that no extra charge would be made, but refused to accede to the request as to the manner of procuring the same—that is, that Americans should not be compelled to make application to the President to enter or continue business, stating on his part that this was a police regulation; that the President should know of the business the party was engaged in; that it was a matter with which the treaty had nothing to do.

I contend that this information is unnecessary, as it is all furnished in the patent granted by the commune to enter or continue business; that the regulation is one made to evade certain rights that we hold under the treaty. I also claim that if this is allowed a precedent is established by which they may enact other laws that will impair the rights for which we have been contending for years.

Before I make another move in this matter I would like to have the views of the Department. Shall I still demand that no application be made to the President, or allow the matter to remain as it is—that is, to make the application so required, but without having to pay the tax imposed by the law.

This matter is important, as all licenses expire at the close of September throughout the Republic.

I have, etc.,

W. F. POWELL.

*Mr. Hill to Mr. Terres.*

No. 372.]

DEPARTMENT OF STATE,  
Washington, September 21, 1899.

SIR: I have to acknowledge the receipt of Mr. Powell's No. 640, of the 29th ultimo, stating that his discussion of the Haitian law requiring foreigners to apply to the President for patents or licenses to enter or continue business, and to pay fees therefor, had resulted, so far as American citizens were concerned, in the minister of foreign relations admitting that under the treaty with the United States they could not be compelled to pay a higher license fee than Haitians. The minister, however, persisted in maintaining that the regulation that they should apply to the President was a police regulation which must be observed, and which was not in contravention of the treaty.

In reply I have to say that the ground upon which this Government has always contested the right of the Haitian Government to impose and collect a fee for a license to American citizens to do business in Haiti is that such action is in violation of the treaty provision which declares that they shall not be compelled to pay "any contributions whatever" higher or other than those that are or may be paid by natives.

Neither this provision of the treaty nor any other, so far as the Department is aware, would justify this Government in contesting the Haitian requirement that American citizens shall make applications for licenses to conduct business.

Nor can the Department perceive how any right would be waived by failure to object to such a requirement.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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**CONSULAR IMMUNITIES—INVASION BY HAITIAN AUTHORITIES  
OF RESIDENCE OF UNITED STATES DEPUTY CONSUL-GENERAL.**

*Mr. Powell to Mr. Hay.*

No. 655.]

LEGATION OF THE UNITED STATES,  
Port au Prince, Haiti, November 11, 1899.

SIR: I call the attention of the Department to the unwarranted invasion of the residence of our deputy consul-general, Mr. Alex. Battiste, by the chief of police, with revolver in hand, assisted also by a portion of the police force of this commune.

As the affair took place prior to my arrival, and as the vice-consul-general, Dr. J. B. Terres, had called the attention of the Haitian Government to this outrage, I did not feel warranted in taking action until I had reported this matter to the Department.

I feel though that some decided action should be taken on the part of our Government to prevent such occurrences in the future.

If this Government be allowed without the slightest pretense to invade the residence of our consular officers, without an energetic warning on the part of our Government that such unwarranted proceedings can not be allowed, our national prestige of protecting our officials abroad will soon be a nullity.

I feel that the Department should inform this Government that acts of this character will have a tendency to mar the cordial feeling which

our Government has in the past as well as in the present extended to them.

On behalf of the deputy consul-general, Mr. Battiste, I desire to state that he did not wish that this matter should be brought to the attention of the Department, but I feel it a duty that the Department should be informed to prevent a like occurrence in the future.

I request that the Department instruct me so that a like flagrant outrage shall not again take place.

I have the honor to submit the correspondence of the vice-consul-general, Dr. J. B. Terres.

I remain, etc.,

W. F. POWELL.

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[Inclosure 1.—Translation.]

*Mr. St. Victor to Mr. Terres.*

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,

*Port au Prince, October 28, 1899.*

My colleague of the department of the interior has just announced to me that he is about to proceed to make domiciliary searches in the square where resides Mr. Alexander Battiste, deputy consul of the United States of America in this city, and that it is possible that they may penetrate in his dwelling. I hasten to give you notice, in view of avoiding all misunderstanding on the subject. The police will, moreover, be accompanied by the justice of the peace.

Please accept, etc.,

B. ST. VICTOR.

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[Inclosure 2.]

*Mr. Terres to Mr. St. Victor.*

LEGATION OF THE UNITED STATES,

*Port au Prince, Haiti, October 31, 1899.*

SIR: Your dispatch dated the 28th instant, informing me that domiciliary searches were about to be made in the square inhabited by Mr. Alexander Battiste, deputy consul of the United States, and that possibly they might enter into his premises, was duly received at this legation, but being unwell and in the country I did not receive it until this morning.

As the messenger represented the case as being urgent, Mr. Battiste, our deputy consul, opened the dispatch, and on reading the contents immediately proceeded to his residence, and found it surrounded by and being searched by the police, who represented that they were searching for a thief. The only persons in his house at the time were his wife, her aged grandaunt, and children, and the abrupt and unceremonious manner in which the chief of police, revolver in hand, followed by his escort, the invasion of the yard by the police entering by breaking down the fence, was therefore quite sufficient to terrify and shock persons unaccustomed to such proceedings.

Now, Mr. Battiste being our deputy consul, our Government considers him as a person without reproach in every respect, and considering the position held by him under our Government it seems to me that such should have been taken into consideration before violating his premises under such pretext; and moreover Mr. Battiste would have certainly in person given any information in regard to his private residence that your Government might have desired.

Please accept, etc.,

JOHN B. TERRES.

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[Inclosure 3.—Translation.]

*Mr. St. Victor to Mr. Terres.*

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,

*Port au Prince, November 3, 1899.*

SIR: I have received the letter that you have done me the honor to write to me, the 31st of October last, in relation to the searches made by the police of this city at the private residence of Mr. Battiste, Deputy Consul of the United States.

In thanking you for that communication, I hasten to express the regret that the unusual precautions taken by my department to facilitate the execution of that police measure did not produce the desired result. I will add that my regrets are the more intense and the more sincere, that Mr. Battiste has always merited the consideration of the Government.

Please accept, etc.,

B. ST. VICTOR.

*Mr. Hay to Mr. Powell.*

No. 378.]

DEPARTMENT OF STATE,  
Washington, November 27, 1899.

SIR: I have to acknowledge the receipt of your No. 655, of the 11th instant, in which you report to the Department the invasion of the premises of the deputy consul by the chief of police and a body of the police force for the alleged purpose of making search for a thief, and you ask instructions as to any further representation to the Haitian Government.

The search seems to have been immediately accomplished without awaiting the result of the formal application made to the legation for its sanction.

The application so made is somewhat vague, but in the light of Mr. Battiste's report to Mr. Terres it appears that the entire square was being searched for an escaped thief who was supposed to have taken refuge there.

As the immunities attaching to the office of deputy consul do not include so-called asylum for persons charged with violating the law, no objection could be seen to effecting the proposed search after notification, and with the sanction and, if necessary, the full assistance of the officers of the legation. It seems clear, however, that the proceedings were not conducted with suitable consideration for Mr. Battiste's official position, his yard fence having been broken down and his premises alarmingly invaded by an armed force.

The protest made by Mr. Terres is approved as proper and timely. The reply from Mr. St. Victor is evasive and unsatisfactory, being confined to an expression of regret that the exceptional precautions taken by his department to facilitate the execution of the proposed police measure had not produced the expected result.

You will impress upon Mr. St. Victor the obvious circumstance that no time was allowed to the legation to respond in the desired sense, inasmuch as the search appears to have been already in progress when the agents of the legation hastened to Mr. Battiste's house for the purpose of aiding the local authorities in the orderly execution of the proposed search, and you will express the hope that you may not at any time hereafter be called upon to make renewed complaint respecting any such offensive disregard of the consideration and official amenities due to the representative agents of the United States at Port au Prince, or, indeed, anywhere else within Haitian jurisdiction.

As it would appear from Mr. Terres's statements that Mr. Battiste's fence has been broken down, you should insist, if it has not already been done, that any injury done to the property of this officer of the United States shall be made good.

I am, etc.,

JOHN HAY.

## ITALY.

### REQUEST TO METHODIST CHURCH IN ITALY.

*Mr. Draper to Mr. Hay.*

No. 426.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, April 13, 1899.*

SIR: I have the honor to send you herewith a copy of a statement made to me by the Rev. William Burt, presiding elder of the mission of the Methodist Episcopal Church, a society duly incorporated under the laws of the State of New York and recognized in Italy by a royal decree, according to the law of June 5, 1850, and having an office at No. 38 Via Firenze, in this city. It relates the difficulties which Mr. Burt has encountered to his efforts to obtain a legacy left to him as presiding elder, etc., by one Carlo Giovane, for the purpose of building an evangelical school in San Marzano, Italy. The attention of the foreign office has been called to the matter in a note, of which I also send you a copy. The case seems to involve not only a considerable sum of money, but the very right of a duly incorporated American body to exist in Italy, and the legality of the titles to its property.

I am, etc.,

WILLIAM F. DRAPER.

[Inclosure 1.]

*Statement of the Rev. William Burt.*

Carlo Giovane, of San Marzano Oliveto, left by will to the Rev. William Burt, as presiding elder of the mission of the Methodist Episcopal Church, 7,000 lire for the purpose of building an evangelical school in San Marzano. The school has been built. Giovane did not nominate his heirs, nor did he dispose of all of his property; hence his brothers and sisters became his legal heirs to them. Therefore, the Rev. William Burt turned to them for the 7,000 lire and asked that certain properties of these heirs be sequestered as a guaranty of the payment of the money. The tribunal of Asti ordered the sequester December 22, 1894. The sentence was confirmed by the court of appeal May 7, 1895. Then came in the clerical influences—religious processions, planting of a cross near the property of the mission in San Marzano, making the people take an oath at the altar of the church in the presence of a notary, the visit of the bishop of Acqui, etc. The case was then brought before the tribunal of Asti again to pass judgment on its merits, and this same tribunal, which before had ordered the sequester, now decided that the money was not left to the Rev. William Burt personally, but to him as representative of a society which had not proved its right to appear in judgment. This sentence was given December 7, 1895, and was confirmed by the court of appeal March 20, 1896. Then the missionary society, already recognized by several preceding royal decrees as a corporate body of the State of New York, immediately obtained from the council of state a royal decree September 30, 1896, authorizing the missionary society to receive the bequest in question. This royal decree was accompanied by numerous documents proving the right of the society to appear in judgment. Notwithstanding this, the tribunal of Asti, on March 25, 1898, not only absolved the heirs from the former sentence of sequester of January 17, 1897, but also condemned the Rev. William Burt personally

to pay all expenses. The Rev. William Burt then appealed to the Government to know if there was anything else he could do to establish the society's right. The Government replied that the right was implied in the royal decree already granted, and that nothing more could be done, or was needed. The Rev. William Burt, furnished with all these documents, appealed, and the case was again heard February 17, 1899, at Casale, and the court not only confirmed the sentence of the tribunal of Asti, but positively declared that the society had no judicial rights in this country. The Rev. William Burt was informed before the case was heard that three of the five judges were clericals, and that the opponents made their boast that for this reason their case was sure, and now it is known that the court stood—the three clericals against the two liberals.

It seems to be now not entirely a question of the 7,000 lire, but of the above-named society's right to be in Italy and of the legality of the titles to its property. When the courts absolutely refuse to recognize the judicial rights of a society duly incorporated according to the laws of the State of New York and duly authorized by a royal decree according to the law of June 5, 1850, what value have the society's titles to property in Italy, and of what importance are the royal decrees when the society has no judicial rights? The society's representative has done all that the laws and government of the country demand, and yet, according to the courts, the society has no rights. Certainly the Italian Government will never permit such a monstrous injustice!

[Inclosure 2.]

*General Draper to Admiral Canevaro.*

I have the honor to call your attention to the following statement furnished to me by the Rev. William Burt, presiding elder of the mission of the Methodist Episcopal Church at No. 38 Via Firenze, Rome:

Carlo Giovane, of San Marzano Oliveto, left by will, on the 19th of February, 1890, to the Rev. William Burt, as presiding elder of the mission of the Methodist Episcopal Church, 7,000 lire, for the purpose of building a Methodist Episcopal school in San Marzano. The school has been built. Giovane did not nominate his heirs, nor did he dispose of all of his property; hence his brothers and sisters became his legal heirs. To them, therefore, the Rev. William Burt turned for the 7,000 lire, and asked that certain properties of these heirs be sequestered as a guaranty of the payment of the money. The tribunal of Asti ordered the sequester December 22, 1894. This sentence was confirmed by the court of appeal May 7, 1895. The case was then brought before the tribunal of Asti again to pass judgment on its merits, and this same tribunal, which before had ordered the sequester, now decided that the money was not left to the Rev. William Burt personally, but to him as a representative of a society which had not proved its right to appear in judgment. This sentence was given December 7, 1895, and was confirmed by the court of appeals March 20, 1896. Then the missionary society, already recognized by several royal decrees as a corporate body of the State of New York, immediately obtained from the council of state a royal decree, September 30, 1896, authorizing said missionary society to receive the bequest in question. This royal decree was accompanied by numerous documents proving the right of the society to appear in judgment.

Notwithstanding this, the tribunal of Asti on March 25, 1898, not only absolved the heirs from the former sentence of sequester of January 17, 1897, but also condemned the Rev. William Burt personally to pay all expenses. The Rev. William Burt then appealed to the Government of His Majesty to know if there was anything else he could do to establish the society's right. The Government replied that the right was implied in the royal decree already granted, and that nothing more could be done or was needed. The Rev. William Burt furnished with all these documents appealed, and the case was again heard February 17, 1899, at Casale, and the court not only confirmed the sentence of the tribunal of Asti, but positively declared that the society had no judicial rights in this country.

This case seems now not to be merely a question of 7,000 lire, but of the very right of the society of which the Rev. William Burt is the head to exist in Rome, although the society is a corporate body of the State of New York and has been recognized by royal decree within this Kingdom. A situation is thus presented in which my Government will take the deepest interest if the judgment of the last court in which the cause was heard should be sustained by the highest court to which it may be carried. I shall therefore be very glad if your excellency will call my attention to any inaccuracies (if such exist) in the Rev. Mr. Burt's statement concerning the decisions of



the courts. What he relates can doubtless be verified by the court records at the disposal of His Majesty's Government.

I avail myself, etc.,

WILLIAM F. DRAPER.

*Mr. Iddings to Mr. Hay.*

No. 471.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, July 6, 1899.*

SIR: Referring to the ambassador's No. 426 of April 13, 1899, about the difficulty which the Rev. William Burt, presiding elder of the mission of the Methodist Episcopal Church at No. 38 Via Firenze, Rome, is having in trying to collect a legacy left to him, as presiding elder, by one Carlo Giovane, for the founding of an evangelical school in San Marzano, Italy, I have now the honor to send to you, with a translation, a copy of the reply to General Draper's note to the foreign office, dated April 12, last, on the same subject, a copy of which was inclosed in his No. 426, above referred to. I have allowed the Rev. Mr. Burt to read this reply. He is well satisfied with the attitude of the Royal Government, and hopes that the meaning of the opinion is that if he does not get justice in the court of cassation, the department of grace and justice will then examine the case. Mr. Burt has taken steps to have his claim to the legacy well presented before the court of cassation.

I am, etc.,

LEWIS M. IDDINGS.

[Inclosure.]

*The Minister for Foreign Affairs to Mr. Iddings.*

His excellency the keeper of seals, to whom I hastened to communicate the contents of your note dated April 12, last, concerning the mission of the Methodist Episcopal Church at No. 38 Via Firenze, in Rome, has expressed himself to me as follows regarding the matter:

"As it is known, there are two opinions regarding the status and capacity of corporations legally established abroad, some writers holding that civil recognition in the Kingdom is indispensable in order to insure to them enjoyment of the practice of the rights pertaining to national corporations, while others hold that a new recognition is useless and even contrary to the principles of international right as accepted by our legislation.

"The ministry of grace and justice constantly followed this last opinion, in conformity with repeated similar opinions of the counsel of state, among which the original ruling of the 7th of June, 1884, in full bench, in which it was held that the recognition of the foreign corporation touching only its rights of holding property should be considered as implied in the very act by which the Government grants the authorization of purchase (requiring) to this end only being required the proof and official declaration that the corporation making the demand has a legal existence and power to hold property in the county of its origin.

"And as it results that the said missionary society of the Methodist Episcopal Church of New York was legally incorporated in the United States and was therefore authorized, by the terms of the law of June 5, 1850, to receive legacies and donations, and also in the case under examination it was authorized to receive the legacy of 7,000 lire, left by the late Carlo Giovane for founding an evangelical school in S. Marzano, as a special decree of civil recognition was not considered necessary.

"In the suit, however, instituted against the Giovane heirs for the payment of the aforesaid legacy, the tribunal of Asti, by the sentence of March 25, 1898, following the first of the above-mentioned opinions, absolved the Giovine defendants from this demand, holding that the society has not made demonstration of its legal existence in the Kingdom, and that the decree of authorization already cited was not sufficient to that end.

"The court of appeals of Casale, by a judgment of February 17 last, confirmed this opinion, but, as has recently been stated by the attorney-general of that city, exceptions will be taken to that sentence.

"In this condition of affairs no steps can be taken in behalf of said corporation, but if the court of cassation is of the same opinion as the judges on the merits of the case, then the ministry of grace and justice, after having heard the counsel of State, will not fail to examine whether, at least in this case, a formal and explicit recognition should be granted to the foreign society in question to enable it to again take legal steps against the Giovane heirs, the judgment already given not, apparently, having prejudiced its merits."

Pray accept, etc.,

MALVANO, for the Minister.

## ABOLITION OF ITALIAN IMMIGRATION BUREAU AT ELLIS ISLAND.

*Mr. Draper to Mr. Hay.*

No. 455.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, June 7, 1899.*

SIR: I have the honor to inclose herewith a copy of a note from the Italian foreign office, dated June 5, with a translation. My personal attention has also been called to certain printed testimony of Mr. Powderly, our Commissioner-General of Immigration, a copy of which is in the possession of the Italian foreign office, and it seems to me that there is some reason for the complaint made in the note which I am sending to you. Outside of the passages to which there is reference in the communication of the foreign office, there is an implication in the testimony of Mr. Powderly that Baron Fava, the Italian ambassador at Washington, secured the establishment of the bureau directed by Signor Rossi, in the interest of the padroni—an implication naturally offensive to Baron Fava and to his Government, and in the nature of things absolutely without foundation. \* \* \* The statement that the bureau was to be suspended, when no notice had been given to the Italian Government, is what the foreign office here specifically complains of. The ministry take the view that this bureau stands on such a basis and is of such a character that its abolition, if such be intended, should be discussed with them, and that reasons for such abolition should be given before any definite action is taken.

In March or April of last year notice was received in Rome that the bureau was to be discontinued in fifteen days. The minister of foreign affairs, the Marquis Visconti Venosta, immediately made a protest to me, and I think also through his embassy at Washington. I wrote in regard to the subject in my dispatch No. 158, dated April 2, 1898. The result of that communication was the temporary revocation of the order of abolishment. If it be really intended now to renew the order, I venture to suggest that it would be most wise to explain to the Italian Government in advance the reasons for such a step, so that it may not seem to them an arbitrary act on our part. I am sure that the Marquis Visconti Venosta is desirous that our immigration laws should be respected in letter and in spirit, and I have always found him ready to consider favorably every suggestion that has been made by us to accomplish this result. I trust that the matter may receive the especial attention of the Department of State.

I have, etc.,

WILLIAM F. DRAPER.

[Inclosure.]

*The Minister for Foreign Affairs to Mr. Draper.*

I deem it my duty to recall the attention of your excellency to certain statements made on February 10 last by Mr. Powderly, Commissioner-General of Immigration in the United States, before the Industrial Commission appointed by Congress and sitting in Washington.

Mr. Powderly having been called upon to speak of the Italian immigration office, formerly established on Ellis Island and now in the Barge Office, declared that he had once already resolved to close said office, having reason to believe that the managing agents of same were in the habit of establishing communications with immigrants prior to the inspection of the latter by the Federal authorities, with the object of aiding the same to evade the United States laws on immigration. I fail to see how Mr. Powderly could have been led to make such a statement, considering that no complaint, supported by proofs, was ever made against the Italian office, and that Chevalier Rossi, director of the same, had repeatedly proved, in the presence of Mr. Powderly himself, that the conduct of the Italian agents had ever been strictly correct under every aspect.

It is quite true that down to a year ago said agents were enabled, through the tacit and friendly assent of the Federal authorities of Ellis Island, to approach immigrants before the latter had received permission to land; but this never gave rise to any complaint, and still less to the abuses to which Mr. Powderly recently thought fit to refer. Had such not been the case, any drawback, however slight, would undoubtedly not have been overlooked when it was proposed, upward of a year ago, to close the Italian office. Moreover, it should be specially remembered that for the last year the Italian agents, acting on strict instruction received from the royal embassy at Washington, have abstained from approaching immigrants unless the same shall have received permission to land. Furthermore, Mr. Powderly has stated that he has heard it repeated that the Italian office was connected with the padrone system; adding, in support of such statement, that a certain Celso Cesare Moreno, resident in Washington, had assured him that the Italian office was simply an agency of the padrones and that many of the things related to him by Moreno, a well-informed person, he had found to be true.

I can not refrain from expressing my sense of wonder that Mr. Powderly, an officer vested with high authority, should have founded his statements on the testimony of said Moreno, an individual who, three years ago, on the action of the Washington Government, was tried and condemned to three months' imprisonment for libel against the Italian ambassador to the United States, his predecessors, and in general against nearly all of the diplomatic and consular authorities in said Republic for having asserted that the same were agents of the padrones residing in New York. Mr. Powderly closed his statement on this matter in the following terms:

"I believe that when our building is erected in Ellis Island we shall be able to take care of every immigrant, and see that he is comfortably lodged and assisted without requiring the aid of any other institution. This shall in fact be done."

It is needless for me to recall the fact that the Italian office was established by joint agreement of the royal embassy at Washington and the United States Government; nor can I understand why Mr. Powderly should consider himself authorized to declare in such an explicit and peremptory manner that said office is to be closed at any date whatsoever.

From a sense of discretion, which will be readily appreciated, I shall not attempt to discuss the statements made by Mr. Powderly. Be it the duty of the United States Government to sift them and determine the degree of importance to be attributed to the same.

The royal embassy at Washington will be simply instructed by me to represent in a friendly manner to the Federal Government how beneficial and disinterested in its action the Italian office has proved, and how every care is taken at all times that nothing be done which is not in accordance with the local laws on immigration. The upright character of Chev. Rossi, director of the office, and the sincerity of the instructions received by him from the royal embassy at Washington, leave me no room to doubt that all cause for misunderstanding will shortly be removed, and that the benevolent efforts of the Italian office will at no time meet with any obstacle to their free development.

As your excellency is aware of the efforts made by the King's Government to regulate in a satisfactory manner the tide of immigration toward the United States, I should consider it highly important if you would kindly communicate your own views on the matter to your Government.

I tender this request with full confidence in the result, and the firm conviction

that the Italian office of Ellis Island is worthy of every support, because it is honestly managed, and of like usefulness to the interests of both countries.

I take this opportunity, etc.,

G. FUSINATO,  
*The Under Secretary of State.*

*Count Vinci to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, June 20, 1899.*

MR. SECRETARY OF STATE: I have the honor to address your excellency, calling your attention to some statements made on the 10th of January last by Mr. Powderly, Commissioner-General of Immigration for the Treasury Department, before the Industrial Commission, now in session in this city.

Mr. Powderly, being requested to speak of the Italian immigration bureau now established at the Barge Office in New York, said that he had at one time thought of suppressing that bureau because he had reason to think that the agents sent out by it were accustomed to come into contact with the immigrants before the latter had been inspected by the Federal authorities, with a view to assisting them to avoid obeying the United States immigration laws.

The Commissioner-General added, moreover, that he had heard it said that the Italian bureau was in league with the padrone system, and by way of corroborating this statement he added that one Celso Cesare Moreno (who, as your excellency is aware, was prosecuted three years ago at the instance of the Federal Government and sentenced to three months' imprisonment for defaming His Excellency Baron Fava, His Majesty's ambassador) had assured him that the Italian bureau was a mere agency of the padroni, and that many of the things told him by Moreno, a well-informed person, had proved to be true.

Mr. Powderly finally closed his statements before the Industrial Commission by expressing himself as follows:

I think that when our building is erected on Ellis Island we will be able to take care of all immigrants, and will be able to see that they are properly lodged and cared for without any need of help from any other institution. In fact, that will be done.

The Government of the King, to which I communicated Mr. Powderly's words, now instructs me specially to call your excellency's kind attention to them, and, without discussing them, to point out to you, in a friendly way, how beneficent and disinterested the action of the Italian bureau has ever been as regards immigration, and particularly to point out what care has been taken by the Royal Government to cause the action of the bureau always to be exerted in harmony with the Federal immigration laws.

It has further instructed me to state to you, on this occasion, that it feels confidence in the uprightness and impartiality of the United States Government, and believes that no obstacles will be placed in the way of the free action of a bureau which, by reason of its humanitarian objects, is deserving of unconditional support, both material and moral.

Be pleased to accept, etc.,

G. C. VINCI,  
*Royal Chargé d'Affaires of Italy.*

*Mr. Hay to Count Vinci.*

No. 492.]

DEPARTMENT OF STATE,  
*Washington, June 23, 1899.*

SIR: I have received your note of the 20th of June, calling the attention of this Department to certain statements made on the 10th of February last by Mr. Powderly, Commissioner-General of Immigration for the Treasury Department, before the Industrial Commission, now in session in this city. After quoting various remarks of Mr. Powderly criticising the action of the Italian immigration bureau, now established at the Barge Office in New York, and after bringing to my notice that the Commissioner-General quoted in support of these criticisms the evidence of one Celso Cesare Moreno, you refer to the antecedents of Moreno, and call my attention to the fact that the Italian bureau has always been beneficent and disinterested as regards immigration, and mention the care that has been taken by your Government to cause the action of the bureau always to be exerted in harmony with the Federal immigration laws. You express also the confidence of the Royal Italian Government that no obstacles shall be placed in the way of the free action of the bureau, which, by reason of its humanitarian objects, is deserving of unconditional support, both material and moral.

Your note has been read with the interest and attention which the importance of the subject requires, and I have without delay submitted it to the attention of the Secretary of the Treasury, commending the matter of which it treats to his early and favorable consideration.

Be pleased to accept, etc.,

JOHN HAY.

*Mr. Adee to Count Vinci.*

No. 504.]

DEPARTMENT OF STATE,  
*Washington, August 14, 1899.*

SIR: Your letter of June 20 last relative to the Italian bureau of immigration at the Barge Office in New York was, as you were advised by the Department's note of June 23, referred to the Secretary of the Treasury.

Mr. Gage states in reply that the files of that Department show that the institution referred to was established in 1894, at the request of the Italian ambassador at this capital, coupled with the assurance that "what is proposed is only an experiment" for the avowed purpose of suppressing "the pernicious padrone system, which the Italian Government is very anxious to break up." In compliance with this request, the Secretary of the Treasury, under date of June 13, 1894, after directing that a room be set aside on the ground floor of Ellis Island station for the display of advertising matter, etc., gave permission to station there "one or two persons who can interview and advise with Italian immigrants who have been allowed to land. It is, however, understood that persons selected by you shall give information to the United States officials of any violation of the immigration or alien contract labor laws which may come under their notice."

He adds that the experiment has now been in operation for five years, and it would seem that the principal object of its establishment—the suppression of the padrone system—having been found imprac-

ticable, has long since been abandoned. It has been found that not once during said period has the said bureau furnished the immigration officials with information regarding violations of the above-mentioned laws by Italian immigrants, although such violations are alleged to have repeatedly occurred, as, for example, the landing of Italian convicts.

It is further reported that the said bureau had undertaken to act as an agent of the immigrants from Italy, appearing before the boards of special inquiry as counsel in their behalf; that it has frequently interviewed such immigrants, in disregard of the condition upon which it was permitted accommodation at the station, before they were allowed to land, and, finally, it is said that through its means information of the methods of inspection and examination at the said station was disseminated among Italians intending to come to the United States, whereby they were enabled to deceive the immigration officials and secure admission when not lawfully qualified therefor.

Accept, etc.,

ALVEY A. ADEE.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, October 23, 1899.

MR. SECRETARY OF STATE: The industrial subcommission on immigration held some meetings in the latter part of last July, under the chairmanship of Mr. Farquhar, at the rooms of the New York Chamber of Commerce, to collect information with regard to immigration.

Among the witnesses who were requested to appear before the commission was Signor Rossi, the chief agent of the Italian bureau of emigration at the Barge Office, who, as in duty bound, made a report to this embassy on the questions which had been put to him on this subject. The royal ministry has repeatedly expressed a wish to have the official minutes of those meetings. I wrote to the secretary of the Industrial Commission, requesting him to send me a copy of the minutes, but he replied, on the 29th September last, that they had not yet been published.

As new requests, however, have been sent me from Rome on this subject, I venture to appeal to your excellency's well-known courtesy with the request that if the document in question has not yet been printed you will, if possible, kindly procure me a copy for my private use, at least of that part containing the interrogatory of Chevalier Rossi, who, if I am not mistaken, appeared before the commission on the 26th July.

Thanking you in advance, I beg, etc.,

FAVA.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, October 31, 1899.

MR. SECRETARY OF STATE: In your note of the 14th of August last I read the replies made by the honorable Secretary of the Treasury

to the note of June 10, whereby Count Vinci called your excellency's attention to the depositions made by the Commissioner of Immigration on the 10th of February last before the Industrial Commission relative to the Italian bureau of immigration on Ellis Island.

The King's Government took exception to the conclusions reached in said deposition, in a communication addressed to the United States embassy at Rome.

With a view to throwing further light upon the matter, and with the sincere purpose of removing all misunderstanding, I now desire to lay before you some additional facts and considerations, which will, I doubt not, entirely change the opinions recently expressed to you by your illustrious colleague of the Treasury.

I shall follow the order in which the aforesaid opinions are stated in the note to which I am now replying, remarking, in the first place, that I recognize as correct the preamble in which Mr. Gage, recalling the reasons which led me to suggest to ex-Secretary Carlisle the establishment of an Italian bureau of immigration on Ellis Island, states the functions which were assigned to said bureau. I fail to agree with him, however, when he asserts, in a general way, but positively, that the bureau has failed to fulfill the main object for which it was established, viz, the abolition of the *padrone* system.

This assertion is at least singular. It is true that, with the limited powers granted to it by the letter of June 13, 1894, which were confined to Ellis Island alone, it was not possible for that bureau to extend its vigilance over all the vast territory of the Union, where, moreover, it could not have jurisdiction, so as to eradicate the *padrone* weed. It is, however, still more true that the Italian bureau has cooperated, and still does efficiently cooperate, in putting a stop (so far as its powers enable it, by the tutelary measures to which I shall hereafter refer in the very words of the head of the bureau) to the frauds which the *padroni*—i. e., the self-styled bankers, lodging-house keepers and saloon keepers of New York, are constantly seeking to practice upon the immigrants who land at Ellis Island. If it were for this reason only, the Italian bureau would be well entitled to the confidence of both Governments.

The distinguished Secretary of the Treasury will here allow me to remark that, while the Italian Government is always careful to cause the frauds and cruelties practiced by the *padroni* to be investigated and punished according to law by the competent judicial or police magistrate, that of the United States, which has knowledge of the existence of this evil in its own territory, confines itself to referring to it as an abuse which has been imported, without giving the sanction of law to a single one of the severe measures which have been adopted in Italy with a view to extirpating, or at least holding it in check.

As to this first charge against the Italian bureau, the following statement has been made to me by Mr. Rossi, its head:

With regard to the objections raised by the Treasury Department that the bureau has not come up to their expectations in its dealings with the *padrone* system, I would say that, far from losing sight of that object we have done what was in our power to counteract the evil; but it must be remembered that so long as a large part of our Italian emigration comes from the Southern provinces, represented mainly by the agricultural or rural classes, proverbial for their simplicity, there will always be those, both Italians and others, who are ready to take advantage of them. In other words, wherever there are lambs to be eaten, there are always wolves ready to eat them up. And it is true, not only of New York, but the world over.

However, the bureau has contributed a great deal, if though (sic) indirectly,

toward checking this padrone system; first, by giving to the newly landed immigrants every possible information, and especially warnings against these bosses, particularly to those immigrants who were to remain in New York; second, by hastening the departure of those who were directed to distant points. These were formerly enticed to remain in town through the artful devices of hotel keepers, bankers, and other agents, and during their stay in the city were pretty sure to fall into the hands of speculators. Now, on the contrary, through the care and watchfulness of the bureau the bankers are obliged to send them their money to our care, and we take great pains to have them leave the city immediately.

Notwithstanding all this, it is quite true that the question of the padrone system is by no means solved; but we do strenuously maintain that, were it not for the existence of the Italian bureau, which has served to hold this evil in check more than the Federal authorities have any idea of, the evils of the padrone system would be far more felt and far more pernicious than they are now. Moreover, when the Italian Government shall have established the labor bureau now contemplated we shall be in a position to deal directly, where we are now obliged to deal indirectly, with the question, for we shall then be able to furnish employment to the incoming immigrants, thus preventing their coming into contact with those who are ever ready to fleece them.

The facts above pointed out by Mr. Rossi have been repeatedly investigated on the spot by me in person.

A second and more serious charge has been made against the Italian bureau, and Mr. Gage has stated it to your excellency as follows:

It has been found that not once during the period of five years has the said bureau furnished the immigration officials with information regarding violation of the immigration or alien contract labor laws by Italian immigrants, although such violations are alleged to have repeatedly occurred, as for example the landing of Italian convicts.

I understand the prejudices which such charges have naturally caused to arise in the mind of the Secretary of the Treasury, but still, I feel that it is my duty to reassure him, by rectifying assertions which are wholly unfounded. This appears from written evidence which I will hereafter produce, and from the conscientious statement which has been sent me on this subject by Mr. Rossi and which I here transcribe:

It has been said that the bureau has failed to denounce those immigrants who come in contravention of the law. I assure you, however, that all cases which have come to the knowledge of the bureau have always been reported. Until now, such reports have, for the greatest part, been made verbally to the commissioners, showing them at the same time the telegrams and letters received from prefects, mayors, and other Italian authorities with regard to certain immigrants who had clandestinely embarked. These were promptly sent back. In such cases we never asked for a written acknowledgment, but we have now requested it, as our good offices in that direction seem thus far not to have been appreciated.

In preventing these cases of contravention the influence of the bureau is felt far more in Italy than here, which fact the Federal authorities seem not to take into account. The information constantly sent out by us to prevent, if possible, the embarkation of those who are not in condition to land, and the rigorous measures that have been taken with the local Italian agents in pursuance of our recommendations—in many cases they have been obliged to refund the passage money and even been subject (Mr. Rossi's meaning is subjected; see his letter, No. 929, of December 29, 1899, to Hon. Thomas Fitchie) to imprisonment themselves—have been largely instrumental in restricting the number of those arrivals in contravention of the law; and if in certain cases they have eluded all vigilance and have arrived here, their number would certainly be much larger were it not for the work done in Italy by our office here.

We seem sometimes to be held responsible for the arrival of ex-convicts and other undesirables who have taken passage from French and German ports, but it can readily be seen that over such cases the Italian authorities have no control whatever. It must also be remembered that before the bureau comes in contact with the immigrants they have already passed through an examination and are admitted; nor must it be forgotten that on the arrival of immigrants the furnishing of the necessary information with regard to destination, routes, tickets, baggage, relatives, and friends,



and the consigning (i. e., delivery) of letters, telegrams, and moneys awaiting them, become for the moment the all-absorbing business, owing to the enormous numbers that frequently come at the same time to the bureau, where we have but limited help. Nevertheless, any case that attracts our suspicion is promptly questioned, and, if necessary, reported to the proper authorities.

In corroboration of the correctness of this statement I herewith inclose 16 documents, with the request that they may be laid before Mr. Gage and returned to me in due time. These documents, which I select from among many, furnish evidence that, contrarily to the information received by the Secretary of the Treasury, the head of the Italian bureau has always hastened to furnish, either verbally or in writing, important information to the Federal authorities with regard to violations by immigrants of the immigration laws, of the laws relating to alien contract labor, and those relating to criminals. On this last subject I must refer to the note which I had the honor to address, on the 20th of August, 1898, to your excellency's honorable predecessor, requesting him to communicate its contents, which had reference to the clandestine arrival of criminals, to the Treasury Department.

On the 27th of the same month Mr. Moore acknowledged, with satisfaction, the receipt of that note of mine, whose conclusions were of a nature fully to reassure the Federal Government with regard to the vigilance exercised by that of the King to prevent the departure of criminals from the ports of the Kingdom for the United States.

"It is further reported," says your aforesaid note of August 14, "that the said bureau had undertaken to act as an agent of the immigrants from Italy, appearing before the board of special inquiry as counsel in their behalf."

In reply to this third charge against the Italian bureau, Mr. Rossi adduces the following facts and considerations:

You speak of the bureau appearing before the board of special inquiry as an agent of the immigrants from Italy and as counsel in their behalf. I beg to say that the bureau has never been before the board officially. The agent, Dr. Rossi, formerly went occasionally, by permit and recommendation of the commissioners, in certain special cases. He has not, however, appeared before that body for a year past. And if his assistant has been sometimes obliged to present a letter or telegram to the board concerning immigrants under examination he has been simply a silent spectator, notwithstanding the fact that the representatives of all the religious and benevolent societies, as well as the agents of the steamship lines, are conceded the right or privilege to plead for the cases in which they are interested.

For my own part, I avail myself of the opportunity offered to remark that, while the Italian bureau is not allowed to appear before the board of inquiry, the benevolent societies and the shipping companies are permitted to send their representatives to defend doubtful cases of immigration which are referred to those boards for examination. This fact, to which I have before had the honor to call the attention of Mr. Gage's predecessors, implies an unwarranted distrust of the Italian bureau, whose head deservedly enjoys the confidence of both Governments and offers much better guarantees of disinterestedness, honesty, and veracity than the representatives of the benevolent societies and the shipping companies. The former, as is well known to the commissioner of the port of New York, have often been represented before the board of inquiry by unscrupulous and venal persons whom it has been found necessary to forbid visiting Ellis Island, and the latter are interested in not having immigrants arriving here in violation of law returned at their expense.

I state this fact simply in a friendly way, it not being my intention to ask a privilege for the Italian bureau that has not been spontaneously granted to it, notwithstanding the fact that this privilege has been accorded to persons who are manifestly interested in causing the immigration laws to be evaded.

Mr. Gage closes the series of charges against the Italian bureau which have been laid before him with these words:

That it has frequently interviewed such immigrants, in disregard of the condition upon which it was permitted accommodations at the station, before they were allowed to land; and finally, it is said that through its means information of the methods of inspection and examination at the said station was disseminated among Italians intending to come to the United States, whereby they were enabled to deceive the immigration officials and secure admission when not lawfully qualified therefor.

I can make no better reply to this last charge, which is based upon an absurd "it is said," than by quoting the very words of the Chevalier Rossi, which are as follows:

After the above statement it seems hardly necessary to say anything calculated to refute the absolutely unfounded accusation that the Italian bureau furnishes information by which the immigrants are enabled to evade the law. First, as every one knows, it is quite impossible to approach the immigrants before their examination; second, the bureau, on the contrary, has given repeated proof of its good faith and loyalty to the American Government, as an example of which I might mention the two hundred and forty-three complaints against the agents of emigration which have been filed in the different provinces of Italy in the last year, a larger number than ever before. In conclusion, I can only say that if the office had given information, which you say it has, to enable the immigrants to evade the American law, it would have seemed not only just, but natural, for the authorities to have informed the Italian embassy at the time such alleged transgression took place.

In point of fact, the greatest precautions are taken by the authorities of Ellis Island, or the Barge Office, to prevent anyone from having any communication with the immigrants before the examination which the latter are obliged to undergo, and the head of the Italian bureau would not have been able even to endeavor to elude this very reasonable provision without his efforts becoming known to everybody. No complaint of this or any other nature has, moreover, ever been made to this embassy or to the King's Government through the American embassy at Rome, either by the United States Government, or by any Federal officer. I have received verbal assurance from Mr. Stump, ex-commissioner-general of immigration, expressing his satisfaction with the way in which the Chevalier Rossi performed the complicated and delicate service intrusted to him, especially as regarded the action taken by him to prevent the American immigration laws from being violated.

From what has been thus far said it appears:

1. That the Italian bureau has succeeded and still succeeds in neutralizing, by means of highly practical measures, which are more efficacious than the Secretary of the Treasury can imagine, the pernicious influence which the padrone system freely exerted in the past under the very eyes of the Federal authorities when a landing of emigrants took place on Ellis Island.

2. That the second and third charges made against the same bureau have no foundation until some evidence is adduced in their support. The bureau has always informed, and still informs, as is proved by the written documents herewith inclosed, the Federal authorities of all violations of the laws of this country by Italian immigrants and

abstains from appearing before the boards of inquiry, to which, however, it can not avoid delivering the letters and telegrams received by it for the immigrants who are under examination.

Concerning the fourth and last charge, I have already said all that is necessary to show its absurdity and incorrectness, so far as it relates to a person so upright and so far above suspicion as the Chevalier Rossi, and also so far as it relates to this embassy, which certainly would not have tolerated his presence in the bureau if it had believed him to be capable of enabling Italian immigrants to deceive the immigration officials.

I have desired to state these facts to your excellency in reply to your aforesaid note of August 14, with a view to dispelling from the mind of the Secretary of the Treasury all doubts as to the perfect uprightness with which the Italian bureau is conducted, and I feel convinced that Mr. Gage, in view of his well-known integrity, will appreciate this effort of mine, which is based upon well-established and well-known facts, which I lay before him through your excellency, with that good faith which, during my long residence in this country, has gained for me the unwavering confidence of five Federal Administrations.

I can not close this note without again calling the attention of the United States Government to the manifest advantage derived from the work of the Italian bureau in equal measure by both countries, and of the consequent necessity of maintaining it as it now exists. This advantage and necessity was recognized in 1894 when the bureau was established by the unreserved consent of our two Governments, and the experience of the past five years has shown that it has never failed to meet the humanitarian purposes for which it was created. For these reasons the Government of His Majesty, whose efforts to properly regulate the current of emigration which sets toward the United States are well known to your excellency, attaches great importance to the maintenance of the bureau in question, whose action has ever been in harmony with the local immigration laws.

I shall be truly happy to be able to inform my Government that such are the views of the Washington Government, and I avail myself meanwhile of this occasion to renew to you, Mr. Secretary of State, the assurances of my highest consideration.

FAVA.

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[Inclosure 1.—Translation.]

ITALIAN EMBASSY,  
*Washington, September 24, 1898.*

MR. CHEVALIER: I herewith send you, for your information, requesting that it may be returned to me, a copy of a decision pronounced on the 27th of July last by the commission of arbitration at Naples, whereby the emigration company known as the "Società Nazionale Marittima" was condemned to refund his passage money to Antonio Colaiacomo, who was sent back from New York to the port where he had embarked owing to his advanced age and his destitute condition.

Accept, Mr. Agent, etc.,

ROMANO,  
*Royal Chargé d'Affaires.*

[Inclosure 2.—Translation.]

[Commission of arbitration for emigration. Number in the register, 469. Subject: Condemnation of an agent. Claim of Antonio Colaiacomo for damages on account of having been sent back from New York.]

The commission of arbitration, under the presidency of the Chevalier Cataldi, counselor delegate, and the following gentlemen taking part, viz, the Chevaliers

Francesco Magnani, acting King's attorney before the civil and penal court; the Chevalier Luigi D'Auria, vice-president, presiding judge of the civil and penal court; Mr. Pasquale Billa, member of the provincial council, and Commissioner-Gennaro Aliberti, likewise member of the provincial council, in its session of July 27, 1898, rendered the following decision in the case of the claim of Antonio Colaiacomo for payment of damages on account of having been sent back from New York:

Whereas the action taken by the commission of Ellis Island was due to the fact that Colaiacomo was 62 years of age and was not provided with sufficient money;

Whereas it is true that the advanced age of the claimant prevented him from entering the United States, and that the fact of his insufficient means would not have induced the American commission to send Colaiacomo back if the latter had not been so far advanced in years;

Whereas the guilt of the emigration company known as the "Società Nazionale Marittima" appears to be fully proved, as does that of Vincenzo Gison, the managing partner, who signed the contract for shipment, which responsibility, however, must be limited to the sum of 76 lire, paid by Colaiacomo as the price of his passage ticket, no other damage being shown to have been suffered by him:

For these reasons, in view of article 17 of the law of December 30, 1888, the commission decides that the emigration company known as the "Società Nazionale Marittima" shall refund to Antonio Colaiacomo, the claimant, the sum of 76 lire, which was paid by him for his passage ticket.

So decided and published at the royal prefecture of Naples.

GENNARO ALIBERTI.  
MAGNANI.  
DAURIA.  
CATALDI.

A true copy.

JULY 17, 1898.

BIULA,  
*Secretary of the Commission.*

[Inclosure 3.—Translation.]

ROYAL PREFECTURE OF THE PROVINCE OF PALERMO, DIVISION 3,  
*Palermo, July 13, 1897.*

This commission of arbitration for emigration having rendered a decision in the case of the subagents Giovanni Cundari and Antonino Costanzo, of Marineo, in pursuance of a complaint made to the royal consulate-general under your charge of the 26th day of July, 1895, by Andrea Guastella, Alfonso Valenti, Maria Alderoni, and Giuseppe La Prata, emigrants, likewise of Marineo, I have the honor to transmit to your excellency, through the proper channel, a copy of said decision which has already been transmitted to the proper judicial authority in order that it may be executed.

For the prefect:

[Signature illegible.]

His excellency the consul-general of His Majesty the King of Italy at New York.

[Inclosure 4.—Translation.]

In the name of His Majesty Humbert I, King of Italy, the commission of arbitration of the province of Palermo, constituted in pursuance of article 17 of the Italian emigration law of December 30, 1888, No. 5866, third series, being composed of the Chevalier Augusto Terravasio, councilor delegate, the delegate Simeone Biuso, acting attorney for the King, the advocate Giuseppe Porcedda, vice-president of the court, Commissioner Calogero Guccione, member of the provincial council, the Chevalier-Professor Vincenzo Olivieri, member of the provincial council, has rendered the following decision:

Whereas on the 26th day of July, 1895, Andrea Guastella (whose father bears the name of Salvatore Guastella), Giuseppe La Prata, son of Giacomo La Prata, Alfonso Valenti, son of Giuseppe Valenti, and Maria Calderoni, daughter of Francesco Calderoni, emigrants, appeared at the office of His Majesty's consulate-general in the city of New York, and lodged a complaint against Cundari and Antonino Costanzo, formerly subagents of the house of Ferilla, of Naples, who, when the aforesaid emigrants sailed from Sicily for America demanded of them, and caused them to pay money which they did not owe, and it is shown that Guastella paid 35 lire (35 lire = 35 francs), Calderoni, 42.50 lire, La Prata, 20 lire, leaving a promise to pay 20 lire

besides. All the aforesaid persons had tickets for passage by steamer, said tickets having been paid for by their relatives in America, so that very little remained to be paid for their departure.

Whereas, according to the memorandum of the delegate of public security of Marineo, of July 11, 1896, it is clearly shown that the sums paid by the aforesaid emigrants were larger than they ought to have been;

Whereas the allegations made by the subagents in their own justification are in no way proved;

Whereas the charges against them being well founded, they must be condemned to restore the amounts unduly collected by them;

For these reasons:

In view of article 17 of the emigration law, and articles 22, 23, and 24 of the code of civil procedure;

The commission of arbitration, rendering final decision, recognizes and settles the damages suffered by the claimants through the fault of the subagents Giovanni and Antonino Costanzo, to the amount of L. 95.90, divided as above, and condemns the subagents to make payment at once, and orders that the present sentence be made executory, and presented within five days at the office of the pretor of the first district by his excellency the prefect of the province.

Palermo, July 12, 1897.

So decided and published on the day above written.

A. TERRAVASIO.  
S. BIUSO.  
G. PORCEDDA.  
C. GUCCIONE.  
D. OLIVIERI.

A true copy.

The secretary of the commission, delegate of public security.

[Signature illegible.]

[Inclosure 5.—Translation.]

*Pellegrino Todisco, son of Antonio Todisco.*

ROCCARINOLA, April 14, 1898.

The person whose name appears above committed a willful murder, September 15, 1896, having slain Michele Ruocco, and having succeeded in surreptitiously making his way to America.

Todisco was sentenced, in default of his appearance, by the court of Santa Maria Capua Vetere, to twenty-four years and ten months' imprisonment, to make good the damage done by him, to pay the costs of court, and to be deprived of the privilege of holding any public office, as your excellency will see by the copy of the sentence, which I inclose.

In view of the foregoing, I beg your excellency to find means, as requested by the family of the murdered man, to send Todisco back to his own country, in order that he may suffer the penalty to which he has been sentenced by the court aforesaid.

Your excellency will be pleased to acknowledge the receipt of this communication.

I am, sir, etc.,

CHEVALIER ANSIELLO RESTESONIA, Mayor.

His Excellency the ROYAL CONSUL OF ITALY AT NEW YORK.

[Inclosure 6.—Translation.]

In the name of His Majesty Humbert I, by the grace of God and the will of the nation, King of Italy.

The ordinary court of assizes at Santa Maria Capua Vetere, composed of the following gentlemen: The Chevalier Francesco Moscati, presiding judge; Paolo Taffuri, associate judge; Bonifacio Belsani, judge of the court, designated by the aforesaid presiding judge to act instead of the other associate judge, Mr. Cherardo Marinelli, who is absent on his vacation; the P. M. taking part, and the acting clerk of the court being present, has pronounced the following sentence in the case of Pellegrino Todisco, son of Antonio Todisco, 24 years of age, a hackman by occupation, of Roccarinola, in contempt, who is charged—

(a) With having, on the 15th day of September, 1896, fired sundry shots, with

intent to kill, in the town of Roccarainola, said shots having caused the death of Michele Ruocco; (b) with having, at the same time and in the same place, fired sundry shots, with intent to kill, at Francesco Russo, a rural guard, while in the discharge of his duties, one of which shots hit said Russo, and although it only wounded him, this was owing to no lack of intent on the part of Todisco, he having done all in his power to cause the death of Russo; (c) with having, at the same time and in the same place, carried a firearm without a permit from the competent authority.

Whereas Pellegrino Todisco, after a formal preliminary examination, was turned over to the court of assizes for trial, in order that he might answer to the charge of willfully murdering Michele Ruocco, and of attempting to murder Francesco Russo, a rural guard of Roccarainola, which crimes were committed during the night of September 25, 1895;

Whereas Todisco, by continually concealing himself, escaped a public trial, and all the measures provided by the code of legal procedure having been taken for the purpose of summoning him to appear and he not having appeared, proceedings were taken against him by default;

Whereas, from the proceedings held, it appears that Todisco was guilty of the double crime with which he was charged;

Whereas he is responsible for the crime of murdering Michele Ruocco, and for that of attempting to murder the guard Russo, under aggravating circumstances;

Whereas, for the crime of willful murder, the law provides the penalty of imprisonment for from eighteen to twenty-one years, and the court thinks that Todisco is, according to the law, deserving of the penalty of twenty-one years;

Whereas, the same law provides a penalty of from twenty-two to twenty-four years' imprisonment for the murder of a public officer, but Todisco is answerable to the charge of attempting to kill Russo, the said Todisco having done all in his power to commit said crime, and consequently the penalty of twenty-four years is reduced to one-third, and is therefore reduced to sixteen years;

Whereas, owing to the commission of more than one crime calling for the same kind of temporal punishment, the aforesaid penalty of sixteen years, together with that of twenty-one years above pronounced, is to be inflicted by half, viz, eight years;

Whereas Todisco, on the day on which he perpetrated the two serious crimes in question, was more than 18 years and less than 21 years old, and hence the penalty to which he is to be subjected must be reduced to one-sixth, it is consequently reduced to twenty-four years and ten months;

Whereas, the condemned person is under obligations to pay damages for the benefit of the injured party, and also to pay the costs of court, and likewise the tax on the sentence;

Now, therefore, the court, in view of articles 364, 365, 62, 67, 56, 37, 38, 39, and 31 C. P. (Code of Procedure?), 568, 569 pp.,

Declares Pellegrino Todisco, son of Antonio Todisco, more than 18 years and less than 21 years of age, guilty of—

1. The crime of willfully murdering Michele Ruocco.

2. Of attempting to murder, under aggravating circumstances, Francesco Russo, a rural guard, while the latter was in the performance of his duty, said crimes having been committed on the 25th day of September, 1896, at Ruccamonfine, and sentences him to imprisonment for the term of twenty-four years and ten months.

It condemns him, moreover, to pay damages for the benefit of the injured party, and to pay the costs of court to the treasury of the State, together with the tax on the sentence.

It declares that Todisco is perpetually inhibited from holding any public office, and that he is to be deprived of his civil rights during the term of the main penalty.

It orders the confiscation of the weapon with which the crimes were committed.

So decided in council chamber on this 4th day of September, 1897, and announced in court by his honor the presiding judge.

F. MOSCATI, *Presiding Judge.*

P. TAFFURI.

BONIFACIO BELSANI.

F. PAPA.

Issued at Santa Maria, C. V., on this the 24th day of March, 1898, at the request of Francesco Vitali, advocate.

A true copy.

PARISI,  
*Acting Clerk of the Court.*

Examined: CACOCIA, P. M.

[Seal of the court at Santa Maria, C. V.]

[Inclosure 7.—Translation.]

*Paolo Cuius.*ROYAL PREFECTURE OF CALTANISSETTA, *October 8, 1898.*

Paolo Cuius, whose name appears above, has made application for a passport to New York, in the United States of America. It appears, however, from the documents produced that he was condemned, in the year 1869, to four days' imprisonment for theft.

Now, since Cuius secured from this prefecture a passport for New York on the 5th day of June, 1893, and since he went there, as appears from the inclosed document, without any objections having been made by the American authorities, although the law of March 3, 1891, was then in force, I beg your excellency to be pleased to make inquiry of the United States immigration authorities with a view to ascertaining whether, in view of the unimportant nature of the offense of which he was found guilty, the aforesaid person would be allowed to land, especially in consideration of the fact that he was not expelled from the United States, but that he left there of his own accord, not thinking that he would not be allowed to return.

I remain, awaiting your reply,  
For the prefect:

RITALBO.

His Excellency the ITALIAN CONSUL AT NEW YORK.

[Inclosure 8.—Translation.]

[Kingdom of Italy, Prefecture of the Province of Syracuse, Provincial Bureau of Public Safety.]

No. 3815.]

SYRACUSE, *May 12, 1898.*

Vincenzo Magnano, son of Sebastiano Magnano and Lucia La Cona (both deceased), born at Termini Imerese, December 23, 1858, domiciled at Melilli, applied to this prefecture some months ago for a passport enabling him to go abroad; this was refused to him on the ground that among other reasons, he had been sentenced by the court of assizes of this city, under date of June 28, 1878, to the penalty of ten years at hard labor and to be placed under special vigilance for three years, for the crime of murder committed on a public highway.

It appears, meanwhile, that he has emigrated to America, making use of the passport issued by this office under date of February 14, 1898, No. 29, to his brother Giuseppe.

I deem it necessary to inform your excellency of this, in order to meet the requirements of the American law of March 3, 1891, and for such other purposes as may be proper.

The royal prefect,

[Signature illegible.]

The CONSUL-GENERAL OF ITALY,  
*New York, N. Y.*

*Mr. Hay to Baron de Fava.*

No. 524.]

DEPARTMENT OF STATE,  
*Washington, November 2, 1899.*

EXCELLENCY: In reply to your note of the 23d ultimo, I have the honor to inclose proof sheets of the testimony given by Mr. Rossi before the United States Industrial Commission.

The secretary of the commission advises the Department that the proofs have not been revised by Mr. Rossi, and that they are furnished as an exception to the general rule in advance of their being printed for general distribution.

Accept, etc.,

JOHN HAY.

*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, November 4, 1899.

MR. SECRETARY OF STATE: I thank your excellency for your courtesy in sending me, as an inclosure to your note of the 2d instant, the advance sheets of the Chevalier Rossi's examination before the United States Industrial Commission.

It appears from these sheets that Mr. Farquhar, chairman of the aforesaid commission, put, among others, the following questions to the head of the Italian emigration bureau on Ellis Island:

Are you aware that there is testimony of substantial and trustworthy witnesses before Congressional committees and our commission affirming that officers in Italy encourage the padrone system in this country, and that they are sharers in its profits?

\* \* \* \* \*

and that officers of the Italian Government, however small or great, send contract laborers to this country, and that the working agency in Italy and the working agency in New York are sharers in the benefits of this system?

His excellency the minister of foreign affairs of Italy having been duly informed of these charges taken up and repeated by the chairman, now instructs me to call your excellency's serious attention, as I hereby have the honor to do, to the assertions made by Mr. Farquhar, and to beg you to be pleased to cause that gentleman to be called upon to furnish proof of the aforesaid charges, which he emphatically stated were made by trustworthy witnesses.

If the Government of the King is credibly informed that among its officers there are any who have been guilty of such acts, that will be sufficient to cause the guilty parties to receive exemplary punishment, and to cause the royal authorities to take steps to prevent this serious abuse from being repeated in future. On the other hand, if, as is more probable, the assertion shall appear not to be corroborated by irrefragable proof, the United States Government can not do otherwise than admit that His Majesty's Government has the right to ask that Mr. Farquhar may receive, officially, a severe admonition for his reckless language, which was so lacking in the regard due to the Government and the officers of a foreign state.

Awaiting information as to the steps which I doubt not your excellency will be pleased to take in this matter in order that I may communicate such information to His Excellency the Marquis Visconti Venosta, I avail myself of this additional occasion to offer you, Mr. Secretary of State, the assurances of my highest consideration.

FAVA.

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*Mr. Hay to Baron de Fava.*

No. 528.]

DEPARTMENT OF STATE,  
Washington, November 15, 1899.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 31st ultimo, replying to the statements made in the Department's note of August 14 last, relative to the Italian bureau of emigration at Ellis Island.



In reply I have the honor to say that I have transmitted copies of your note and its inclosures to the Secretary of the Treasury for his consideration.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Baron de Fava.*

No. 530.]

DEPARTMENT OF STATE,  
*Washington, November 21, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant, in which you refer to certain questions put by Mr. Farquhar, of the United States Industrial Commission, to the Chevalier Rossi, chief of the Italian emigration bureau, alleging that officers of the Italian Government encouraged and profited by the padrone system, and request that Mr. Farquhar may be called upon to produce proof of the allegations made, and, in the event of his failure to do so, that he may receive officially a severe admonition for his reckless language.

In reply I have the honor to state that the executive department of the Government has no power of supervision or control over questions which a legislative tribunal charged with the duty of conducting an inquiry may, in the exercise of its discretion, allow to be propounded to witnesses with a view to a searching investigation of the facts. Out of deference to your excellency, however, and as an act of courtesy, the Department has brought the matter to the attention of the commission, who have kindly informed it that, even before the receipt of your note, the matter which you deem objectionable had been stricken from the records of the commission, and that no unsupported reflections upon the Italian Government will be contained in the report of the commission, a copy of which will be furnished you.

Accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

ITALIAN EMBASSY,  
*Washington, November 25, 1899.*

MR. SECRETARY OF STATE: I took care, yesterday, to call your attention, in a wholly unofficial and friendly matter, to a communication which was yesterday addressed by the Commissioner of Immigration of the port of New York to the agent of the Italian immigration bureau for the purpose of notifying him that the said bureau would be abolished January 1, 1900. Last night's and this morning's papers confirm this news as emanating from the Commissioner-General of Immigration, as you may convince yourself by the inclosed clippings.

The fact that such decision, abrogating an agreement entered into with the reciprocal consent of two friendly Governments, has been reached without any previous notice having been given to this royal embassy by the honorable Department of State, and that this decision has been communicated by subordinate authorities to the Italian agent without any intimation to me, and then given to the press, is without precedent, you will admit, in international relations. It constitutes

a lack of regard for Italy, which has always sought to maintain the most cordial relations with this country.

Consequently, while protesting against this proceeding, of which I feel convinced that your Department has no knowledge, I have the honor to beg you, Mr. Secretary of State, to be pleased to use your good offices with a view to causing any decision relative to the Italian immigration bureau to be suspended until the question has been more fully examined on both sides.

Be pleased to accept, etc.,

FAVA.

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*Mr. Hay to Baron de Fava.*

No. 533.]

DEPARTMENT OF STATE,  
Washington, November 27, 1899.

EXCELLENCY: As I stated in my note of the 15th instant, I forwarded to the Secretary of the Treasury a translation of your note of the 31st ultimo, relative to the Italian bureau of immigration at Ellis Island.

I am now in receipt of his reply.

Mr. Gage states that the records of his Department show that the above-mentioned bureau was authorized in compliance with the terms of your request, of date May 13, 1894, merely as "an experiment" for certain purposes, which, as appears from the report of the Commissioner of Immigration of New York, it has failed to accomplish.

He adds:

The privilege, moreover, is one that is desired by other nations, and is one that the efficient administration of our laws compels us to deny. This reason makes it expedient not to continue the authorization for a longer period than the five years which it has been in force, and thus perpetuate a distinction in favor of one country to the exclusion of others.

He is therefore of opinion that the authorization given on June 13, 1894, should be rescinded, and I have the honor to inform you that he has fixed the date of January 1, 1900, as that on and after which the privileges granted the bureau shall cease.

As requested by you, I have the honor to return the original inclosures in your note.

Accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, D. C., November 29, 1899.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note of the 27th instant, whereby your excellency informed me of the abolition of the Italian bureau of immigration at Ellis Island, to take place on the 1st of January next. You were then pleased to append a private note of your own, in which you explain to me that the Treasury Department gave notice of this abolition to the Department of State by means of a letter of the 22d instant, and that special circumstances connected with the death and funeral of the lamented Vice-President prevented the communication of a more

speedy notification. Your excellency thus excused the Treasury Department on account of the fact that this abolition was received through subordinate channels and through the press, to which fact alone your excellency appears to attribute my note of the 25th instant.

Thanking your excellency for your courteous explanations, I am sorry to be obliged to say that they in no wise change the painful impression made upon my mind by this sudden measure, which, it appears, the Treasury Department has taken without the knowledge of the Department of State.

The Italian bureau of immigration, although established by means of a letter from the Treasury Department, has continued to exist for five years with the authorization of the Federal Government, and has formed the subject of constant diplomatic communications with the honorable the Department of State. It had an official character and was recognized by both Governments.

The lack of regard, which is regretted by me, lies, therefore, not only in the date when the abolition of the bureau was communicated to me, but especially in the fact that the measure itself was adopted and carried out without any previous notice to me. You will admit, I trust, that I had a right to expect to be consulted by your excellency, with whom alone I can have official relations, before the abolition of a bureau which was maintained by the Government of Italy with the amicable consent of the Federal Government.

I am therefore constrained to maintain the protest which I have already had the honor to send your excellency as an inclosure to my note of the 25th instant, and again to express to you the hope that, inasmuch as the matter is one of an international character, in which the Department of State is the only one that is competent to judge, you will be pleased to cause the suspension of the measure in question, so that it may be examined and discussed with this royal embassy.

The reason stated for the action taken against the bureau of immigration, namely, that in this case a privilege was asked for by other powers and not granted to them, does not seem to me to be such as to exclude the discussion for which I asked.

Italian emigration, owing to the number and quality of the emigrants, presents special conditions which amply justified a special treatment. No other emigration feels so strongly the necessity of being protected immediately after landing. The Italian Government, in asking to furnish this first protection through its bureau, complied with the obligation to furnish protection which is incumbent upon Governments toward their own citizens, but it also offered valuable aid to the Federal Government, which can not do otherwise than take an interest in these persons, a great many of whom will become citizens or parents of American citizens. The cordial relations which have always existed between our two countries could not, in my opinion, have led to a sudden abolition of the Italian bureau, but to a wider discussion of the modifications which it might properly have undergone in order to be made to harmonize with the internal requirements of the United States Government and with those common purposes of protection which ought to actuate us in the case of Italian immigrants.

The assurances of good will which you were pleased to give me in our conversations lead me to trust that the question will be placed upon this ground.

Be pleased to accept, etc.,

FAVA.

*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,

*Washington, D. C., November 30, 1899.*

MR. SECRETARY: Referring to the note dated yesterday, in which I had the honor to request once more your good offices to the end that the measure suddenly taken by the Department of the Treasury for the abolition of the Italian bureau of emigration may be suspended, I take this opportunity to inform you that, by telegram, dated this day, His Excellency the Marquis Visconti Venosta, minister of foreign affairs of the Kingdom, has charged me to express to your excellency the painful surprise which this abolition and the manner in which it was decided have caused the Italian Government.

In instructing me to insist energetically in your Department that the measure in question should be suspended so that, with a common accord, a satisfactory solution of the difference may afterwards be sought, the Marquis Visconti Venosta makes no concealment of the regrettable effect which the abolition of the said bureau, if it is maintained, would necessarily produce from the point of view of the good relations existing between our two countries.

It is not necessary, Mr. Secretary of State, that I should say to you how much I should be gratified personally if I could reassure my Government in regard to the friendly intentions of the Cabinet at Washington, in the sense of the demands which I have been charged to herewith renew.

Please accept, etc.,

FAVA.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,

*Washington, November 30, 1899.*

MR. SECRETARY OF STATE: By my note of the 4th instant I had the honor to request you, in pursuance of the express instructions of my Government, to be pleased to send officially to Mr. Farquhar a severe and suitable admonition, provided that he should not be able to furnish valid and irrefragable proof of the charges made by him against officers of the Kingdom, who, according to him, were encouraging the padrone system of the United States in order to divide the profits accruing therefrom.

On the 21st instant your excellency was pleased to reply to me as follows:

The executive department of the Government has no power of supervision or control over questions which a legislative tribunal charged with the duty of conducting an inquiry may, in the exercise of its direction, allow to be propounded to witnesses with a view to a searching investigation of the facts.

Your excellency added that, out of deference to me, and as an act of courtesy, you had called the attention of the Industrial Commission to this matter, and that said commission had kindly informed you that, even before the reception of my aforesaid note, the assertions to which I took exception had been stricken from its reports, in which no unsupported reflection against the Italian Government would be allowed to appear

I thank your excellency for this communication, which I shall hasten to bring to the knowledge of my Government without prejudice to the view that may be taken by the latter with regard to the solution of a case which has been reported by the leading newspapers of the United States and thus rendered public property, and which emanated from a person holding his appointment as chairman of the Industrial Commission from the head of the state. This origin of his functions rendered him, perhaps, responsible to the Federal Administration for the lack of regard publicly shown to the Government and officers of a foreign state.

Accept, Mr. Secretary, etc.,

FAVA.

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*Mr. Draper to Mr. Hay.*

No. 531.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, December 1, 1899.*

SIR: I have the honor to report that on Wednesday I made my first visit to the foreign office since my return, and had quite a long conference with the minister for foreign affairs, the Marquis Visconti Venosta. Although we talked on several subjects, it may be proper to refer to them all in this dispatch in order to give a kind of résumé of matters at present under consideration in Rome and affecting the United States.

\* \* \* \* \*

The Marquis then stated that he had heard from Baron Fava that the Italian bureau of immigration at Ellis Island was to be abolished the 1st of January, and expressed his hope that this would not be done. He said that, as he understood it, the bureau was established with the consent of both Governments and was for the protection of Italian subjects; that it was intended to operate in no way against our immigration laws or our interests, but in conformity with them; and that if, in any detail, it did not work well, he would be glad to have the methods of the bureau modified so as to produce the beneficial results for which it was instituted; and he added that it would produce a bad impression in Italy if the bureau were abolished without, at least, attempting to reach some amicable understanding regarding it. It would be quite likely, he declared, to be interpreted as an evidence of unfriendly feeling on our part toward Italian immigrants, if not toward Italy as a nation, and he asked that I should report his views to the Department, which I do.

I may add that, as stated in my dispatch No. 158 of April 2, 1898, when it was proposed to abolish this bureau, and referring also to Mr. Iddings's dispatch No. 494 of September 26 last, this Ellis Island bureau is a matter of especial personal interest to the Marquis Visconti Venosta, and that he has extended, or desires to extend, a similar system to South American countries, where there are large numbers of Italian emigrants. Unless there is the very strongest reason for the abolition of the bureau it would seem to me wise, rather than to abolish it suddenly, to discover some means by which it can be rendered useful, or at least harmless, from our point of view, if it is not so already.

\* \* \* \* \*

In closing, I must repeat that the minister lays great stress upon the Ellis Island matter and that he has written me a private note on the subject since this interview, which I will inclose in another dispatch.

I am, etc.,

WILLIAM F. DRAPER.

*Mr. Draper to Mr. Hay.*

No. 534.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, December 1, 1899.*

SIR: Referring to my dispatch No. 531 of even date with this, I have the honor to say that since dictating it I have received a private note from the Marquis Visconti Venosta regarding the abolition of the bureau at Ellis Island, a copy<sup>1</sup> of which I inclose. This communication leads me to add that in his conversation on Wednesday the minister for foreign affairs expressed himself very strongly on this subject—much more strongly than I have allowed it to appear in my report of the conversation as written in my dispatch No. 531, which is not confidential. He declared emphatically that the abolition of the Ellis Island bureau, taken in connection with the Tallulah murders and previous lynchings, might be considered as an evidence, if not of hostile at least of unfriendly feeling on our part toward Italy. I also confirm, on page 3 of this dispatch, the cipher telegram sent to you to-day on the same subject.

It seems to me that this is a matter of importance, and I commend it to your careful consideration.

I have, etc.,

WILLIAM F. DRAPER.

[Inclosure.]

*Mr. Draper to Mr. Hay.*

[Telegram.]

DECEMBER 1, 1899.

Minister for foreign affairs informs me our Government announces speedy abolition of Italian bureau Ellis Island; regrets it, and says it would have painful effect on the relations of the two nations, especially after Tallulah affair. I request hold matter in abeyance, at least until my written dispatch of to-day inclosing confidential letter from minister for foreign affairs is received. I have just received your personal letter of November 13 in regard to Tallulah affair.

DRAPER.

*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, December 2, 1899.*

MY DEAR MR. HAY: In the conversations which we have had with regard to the abolition of the Italian emigration bureau we agreed that I should lay before you a plan that might offer a solution satisfactory

<sup>1</sup> Not printed.

to both parties and protect the reciprocal interests of our two countries.

Although I am ready to formulate such a plan without delay you will be pleased to admit that it would be premature on my part to submit a concrete plan to you before reaching an understanding as to its general lines and before I have the assurance that, reserving such modifications as it may be thought proper to introduce therein, the Federal Government is prepared to accept my proposition with favor.

The difficulties which the Italian bureau has hitherto met with have arisen, allow me amicably to tell you, from two misunderstandings. On the one hand the Treasury Department has always insisted on giving to Mr. Carlisle's letter, whereby the bureau was established, a scope which it did not have. Although in my efforts to secure the establishment of that bureau I laid stress upon the necessity of thus combating the padrone system and other objectionable features of our emigration, the sphere assigned to the bureau by the letter of June 13, 1894, was so limited that there was really no reason to expect that it could, of itself, wholly abolish a widely extended evil, whose causes are multifarious and are to be attributed to the condition of your country itself.

It is consequently not surprising that the numerous investigations of which that unfortunate bureau has formed the subject have all declared that it had not succeeded in abolishing the padrone system. Still, far from being a failure, the bureau has exceeded all the expectations of my Government in the work done by it to protect our immigration. Mr. Stump recognized this in his report, and I fully showed it in my note of October 31, which has not received the slightest attention. If it were not so I should not insist, as I do, upon the retention of the bureau. Its action daily prevents immigrants from falling by hundreds into the hands of the speculators who are on the watch for their arrival, and that action can not be exerted or explained unless it is impossible for the immigrants to be approached by these speculators previously to their having been before the bureau. It is the impossibility of this dangerous contact that is desired by the Italian Government above all things, and a *modus vivendi*, if, as I trust, one can be reached, must meet this eventual condition.

The second misunderstanding, which, in my opinion, has always had the greatest weight in the opposition which the Italian bureau has met with from the Treasury Department, has its origin in the impression that that bureau represented a foreign, and, consequently, intolerable interference with the exercise of the functions of the commissioners of immigration. This feeling has been at the bottom of all the charges made against the bureau and against the embassy itself, which charges have sometimes been really serious, but which it would be useless to contradict, owing to the absurdity of supposing that His Majesty's Government, the embassy, and the bureau could conspire, the one with the other, to evade the laws of the United States.

Now, the Italian Government has too much regard for international comity to hesitate, even for an instant, to accept any modifications that will remove even the appearance of any interference which does not exist but which the officers of the Treasury Department seem to attribute to the bureau as it now exists.

Finally, before laying a concrete proposition before you, I should wish, my dear Mr. Hay, to have the assurance that the Federal Gov-

ernment is disposed to accept, in principle, a plan combining these two conditions:

1. The elimination of any appearance of interference on the part of the bureau with the functions of the Federal authorities.

2. The impossibility for the immigrants to come into contact with other persons previously to having been before the Italian bureau.

As you are aware, my Government does not desire to encroach upon the prerogatives of your officers, but simply to protect the emigrants, which should be encouraged instead of being opposed by the Federal Government.

The final reason stated by Mr. Gage for the measure taken is readily understood. He claims that a privilege which has been refused to other powers can not be granted to Italy. But none of the other nations has an immigration comparable to ours, either as regards quantity or quality. The bureau, moreover, had existed for five years before causing any difficulty to the Federal Government. Finally, as the case is one connected with our international relations, your excellency alone was competent to raise this question, and I am pleased to state that I have always met with the most favorable disposition on this subject at the Department of State.

I hope that you will continue to entertain this disposition and, by making a favorably reply to this letter, you will once more act in accordance with the well-known sentiments of good friendship by which both the Federal Government and your excellency are actuated.

I need not tell you that I should see with the greatest pleasure any other plan that might emanate from your excellency.

Believe me, my dear Mr. Hay, with the highest respect, your excellency's most obedient servant,

FAVA.

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*Mr. Hay to Baron de Fava.*

No. 536.]

DEPARTMENT OF STATE,  
Washington, December 4, 1899.

EXCELLENCY: Referring to the conversations which I have had the honor to hold with you, and with especial preference to your excellency's letter of the 2d of December, I regret to inform you that after mature deliberation and a careful examination of all the circumstances in the case, this Government thinks it not expedient to reconsider the decision already arrived at for the discontinuance of the Italian bureau at the New York immigration station.

With the highest regard, I have, etc.,

JOHN HAY.

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*Mr. Draper to Mr. Hay.*

No. 539.]

EMBASSY OF THE UNITED STATES,  
Rome, Italy, December 8, 1899.

SIR: I have the honor to report that yesterday afternoon I received from the minister for foreign affairs, the Marquis Visconti Venosta, a



personal note, a translation of which I inclose, together with certain quotations from the original. The telegram from Baron Fava, which the minister refers to, stated that, in spite of his earnest exertions to induce the Secretary of the Treasury to suspend the abolition of the Italian Emigration Bureau, the Secretary of State had written to the ambassador that, after mature examination, the Government did not think it expedient to revoke the abolition. On receipt of this note I telegraphed you as follows:

(Confidential.)

Minister for foreign affairs tells me he has received dispatch from Fava, saying that our Government has informed him that it does not deem it expedient to reconsider the determination to abolish Ellis Island bureau. Is this correct? Minister for foreign affairs also requests me to ask by telegraph if a delay can not be granted at least until he can be made acquainted with reasons for abolishing the bureau. I can not conceal from you my fear that the amicable relations between the two countries will be affected if this request be not granted.

I sincerely hope that this request for delay will be granted. I fear that the strong Italian sentiment involved in the question is not fully understood or appreciated in Washington. Should not consideration be given to the combined effects of the Tallulah lynching and the abolishment of the Ellis Island bureau? I believe that to decline to grant the delay asked for will cause a feeling with the Italian Government, whether justifiable or not, that it has not been courteously treated, and that the refusal will have a detrimental effect on our relations with Italy in many directions. I am not informed as to the facts and arguments on the other side, but I think it my duty to describe the situation here clearly and emphatically.

I have, etc.,

WILLIAM F. DRAPER.

[Inclosure.—Private letter from Marquis Visconti Venosta dated December 7, 1899.]

Inclosed is a telegram which I have received from Washington. I am convinced that your excellency will not be less disturbed by it than I am. At the bottom, what we ask is very simple, that the measure taken against our Barge Office bureau be suspended to give us the time on both sides to discuss mutually and amicably the reasons which have actuated the decision of the minister of the Treasury. Of these reasons I am entirely ignorant, and it is difficult for me to comprehend that in place of stating them to me, and of putting us in position to examine them in common one persists in closing the question without saying anything to us except the announcement of the accomplished fact (on persiste la question sans rien nous dire, sauf l'annonce du fait accompli). If your excellency believes it possible to intervene again usefully by a telegram to the Federal Government, I shall be very grateful to you. It seems impossible to me that they will not accord a delay—a simple delay (il me semble impossible qu'on ne veuille pas accorder un sursis, un simple sursis).

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*Mr. Hay to Mr. Draper.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 8, 1899.

Your confidential dated yesterday received. Ellis Island bureau will be discontinued January 1, for administrative reasons. This Government thinks it not expedient to reconsider its action.

HAY.

*Mr. Hay to Baron de Fava.*

No. 538.]

DEPARTMENT OF STATE,  
Washington, December 8, 1899.

EXCELLENCY: In accordance with your request I transmitted at once a copy of your latest notes on the subject of the Italian bureau to my colleague of the Treasury.

I regret once more to have to inform your excellency that this Government does not see its way clear to reopen the subject.

I am, etc.,

JOHN HAY.

*Mr. Draper to Mr. Hay.*

[Telegram.]

ROME, December 9, 1899.

Have stated the purport of your telegram of yesterday to minister for foreign affairs. He expresses great regret and says he will instruct Fava to ask if there is not some manner agreeable to our Government in which the inconveniences to Italian emigrants, which their bureau designed to prevent, can be mitigated or avoided.

DRAPER.

*Mr. Draper to Mr. Hay.*

No. 541.]

EMBASSY OF THE UNITED STATES,  
Rome, Italy, December 9, 1899.

SIR: I have the honor to acknowledge the receipt this morning of a cipher telegram from you reading as follows when deciphered:

Your confidential dated yesterday received. Ellis Island bureau will be discontinued January 1, for administrative reasons. This Government thinks it not expedient to reconsider its action.

Later I communicated the purport of this instruction to the minister for foreign affairs, who expressed great regret, but said that he would instruct Baron Fava to ask if there were not some means agreeable to our Government in which the inconveniences to the Italian emigrants which their bureau was designed to prevent could be mitigated or avoided. I accordingly have sent you a telegram in cipher to that effect, and it is confirmed on this page of this dispatch. I sincerely hope that some arrangement satisfactory to both Governments may be arrived at.

I am, etc.,

WILLIAM F. DRAPER.

*Baron Fava to Mr. Adee.*

EMBASSY OF HIS MAJESTY THE KING OF ITALY,  
New York, December 14, 1899.

MY DEAR FRIEND: Hoping that your health is entirely restored and that you have resumed your work at the State Department with your habitual activity, I desire to call your attention to an urgent matter.

You are certainly aware that the Secretary of the Treasury has not thought proper to revoke his decision to abolish the Italian immigra-

tion bureau on Ellis Island, and that notwithstanding the reiterated efforts of my Government to secure the continuance of said bureau.

Not being able to leave our immigrants without the assistance to which they are entitled, and while expressing to Mr. Hay, through Mr. Draper, its confidence that the Federal Government will facilitate the measures that may be taken by me with a view to rendering less serious the consequences of this abolition, my Government has authorized me to install the bureau in question as a dependency of the consulate-general of Italy at New York, under whose direction it will be able to continue its beneficent and humanitarian functions.

On and after the 1st of January next it will therefore be the duty of the delegates of the Italian consul-general to repair to the Barge Office on the arrival of Italian immigrants for the purpose of rendering them the assistance of which they are in need.

I do not think that the Secretary of the Treasury will have the slightest objection to the admittance to the Barge Office of the delegates of the Italian consulate on the same ground that such admittance has long been granted to the delegate of the Austro-Hungarian consulate in New York. Of course, the functions of the Italian delegates are exactly the same as those which are performed by the Austro-Hungarian delegate.

I reserve the transmission of the official request to the Secretary of the Treasury through the kind mediation of the Department of State. Meanwhile, you would greatly oblige me by giving me the assurance that this request will be transmitted as soon as possible, in view of the fact that the 1st of January is very near at hand.

I rely upon your habitual friendship for a prompt reply, inasmuch as I desire to settle all the details relative to the reorganization of the bureau as speedily as possible.

Thanks, and believe me,

Very truly, yours,

FAVA.

P. S.—In case the state of your health does not yet permit you to go to the Department, I beg you to send this note to Mr. Hay, requesting him, in my name, to have the kindness to send me directly the assurance referred to above.

Thanks, again.

FAVA.

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*Baron Fava to Mr. Hill.*

[Telegram.]

NEW YORK, *December 21, 1899.*

Having been instructed by my Government to reorganize the Italian immigration bureau before December 30, it is necessary that I should be informed without delay whether the scheme mentioned in my letter 14th<sup>1</sup> instant to Mr. Adee finds no objection.

I ask in favor of the agent of the Italian consulate but the same admission to Barge Office under the same conditions granted to the agent of the Austrian consulate.

Please wire me. Thanks.

BARON FAVA.

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<sup>1</sup> See note of December 21, 1899.

*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, D. C., December 21, 1899.*

MR. SECRETARY: By your note of the 6th you have been kind enough to express to me your regret that the Federal Government was not able to revoke the measures which it had taken for the abolition, on and after the 1st of January next, of the Italian bureau of immigration established at Ellis Island. I also regret to learn, Mr. Secretary, that the reiterated requests of my Government for the maintenance of the said bureau, or at least for the suspension of a measure which was taken suddenly and without any previous notice, contrary to received usages among friendly Governments, have been without effect.

As it is not possible, however, to leave our immigrants without the assistance to which they have the right, the Royal Government has already expressed, through the kindness of His Excellency Mr. Draper, its confidence that the Federal Government will be good enough to facilitate the measures which I shall be able to take to attenuate the consequences resulting from the abolition of the bureau in question.

It is in this confidence that it has authorized me to install the said bureau in an annex of the consulate-general of Italy at New York, under the direction of which it will be able to continue its beneficent and humane functions.

After the 1st of January next the persons delegated by the consul-general of Italy at New York will proceed to the Barge Office on the arrival of immigrants to give them what assistance they shall need.

I am certain that the Secretary of the Treasury will not object to the admission to the Barge Office of those delegated by the Italian consul-general on the same footing of admission which has been accorded for a long time to the representative of the Austro-Hungarian consulate at New York. It is not necessary to say that the functions of the delegates of the Italian consulate will be exactly the same as those exercised by the delegate of the Austro-Hungarian consulate.

Begging you to let me have an answer on this subject, an answer which is urgent on account of the very brief delay which separates us from the 30th of December,

I have the honor, etc.,

FAVA.

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*Mr. Hill to Baron de Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 22, 1899.*

Your telegrams received. Have proposed to Treasury admission of Italian agent to Barge Office as you desire, but reply has not yet been received. Will inform you as soon as possible.

DAVID J. HILL.

*Mr. Hay to Baron de Fava.*

No. 545.]

DEPARTMENT OF STATE,

*Washington, December 26, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 21, in which you state that the Italian immigration bureau has been installed in an annex of the consulate-general of Italy at New York, and that after the 1st of January next persons delegated by the consul-general of Italy at New York will proceed to the Barge Office on the arrival of immigrants to give them what assistance they may need.

The desire of your excellency that these persons be admitted to the Barge Office on the same footing as that accorded to the Austro-Hungarian consulate at New York has been expressed to the Secretary of the Treasury and is receiving his consideration. The urgency of a decision has also been represented, and a reply has been promised in time to be acted upon by the 1st of January next. The Secretary of the Treasury has expressed his intention to accord to the representatives of the Italian Government every privilege extended to any other.

Accept, etc.,

JOHN HAY.

*Baron Fava to Mr. Hay.*

ITALIAN EMBASSY,

*Washington, January 7, 1900.*

MR. SECRETARY OF STATE: You were pleased, in referring to my note of the 21st ultimo, to inform me, under date of the 5th instant, that "it has been decided by the Treasury Department to instruct the commissioner of immigration at the Barge Office at New York to extend the same facilities for meeting and caring for immigrants from Italy as are extended upon the arrival of immigrants from any other countries."

I have the honor to thank you for this communication, although I regret the considerable delay with which it has been sent to me, to the detriment of the interests of Italian immigrants, which it is the duty of this royal embassy to protect.

Permit me to remark, furthermore, that, by the decision which you have been pleased to communicate to me, the Treasury Department has made no answer to the frank and explicit requests which I took care to formulate, either in my aforesaid note of December 21, or in the letter which I addressed, on the 27th of that month, to the honorable Mr. Hill.

In expressing, by those two letters, the conviction that the delegates of the consulate-general of Italy at New York would be admitted to the Barge Office "by the same right as the delegates of the Austro-Hungarian consulate, and that they would perform the same functions there," I asked, especially, that those functions might be clearly defined, so as not to give rise to any further misunderstandings which would afterwards furnish ground for regret on both sides.

As the Treasury Department has made no mention of those powers in the above-named decision, and as it has not specified what the facilities are which are extended upon the arrival of immigrants from any other countries (which phrase can evidently refer to none but the dele-

gate of the Austro-Hungarian consulate), I am under the necessity of again insisting that those powers and facilities, which have long been enjoyed by the aforesaid delegate of the Austro-Hungarian consulate, shall be clearly and plainly stated to me.

This request, which I hereby reiterate, is fully justified by the earnest desire which I feel to avoid the slightest misunderstanding in future, and to issue to the King's consul at New York, as regards the sphere of action of his delegate at the Barge Office, categorical instructions in absolute harmony with the intentions of the Treasury Department, and with the instructions which that Department undoubtedly communicated at the proper time to the consulate of Austria-Hungary at New York.

I trust that these frank and unequivocal declarations will be appreciated by the honorable Secretary of the Treasury, and that he will consequently comply with my requests, which, from the beginning of this incident, have been designed solely to enable me to act in full accord with him and with the requirements of the Federal Bureau of Immigration.

Be pleased to accept, etc.,

FAVA.

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*Mr. Hay to Baron de Fava.*

No. 549.]

DEPARTMENT OF STATE,  
Washington, January 20, 1900.

EXCELLENCY: Replying to your note of January 7, in which your excellency requests that the facilities to be offered to delegates sent by the Italian consul-general at New York to the Barge Office for the purpose of meeting and assisting immigrants from Italy be clearly defined, I have the honor to state that the Secretary of the Treasury has expressed his regret that, owing to the change now going on at Ellis Island and the narrow quarters at the Barge Office, the Treasury Department is unable to indicate how and where representatives of foreign countries are to meet immigrants. The Secretary of the Treasury adds that as soon as the buildings at Ellis Island are completed and the immigration station is removed thereto, it is hoped the Treasury Department may be able to make such arrangements for the convenience and comfort of admitted immigrants during the time they remain on the island as will enable their friends to communicate with and care for them. When that time arrives, it may be possible to accommodate all who are philanthropically or benevolently inclined to assist the immigrants in securing employment and in protecting them from the rapacity and greed of those who would exploit their labor or take advantage of them.

Accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, January 21, 1900.

MR. SECRETARY OF STATE: In your kind note of the 20th instant, your excellency, in reply to my communication of the 7th instant, was pleased to inform me that your colleague of the Treasury regretted

that, for reasons given in the note, he was unable to say how or where the delegates of the foreign consulates at New York could approach the immigrants at the Barge Office. You add, however, that the Secretary of the Treasury given reason to hope that when the buildings at Ellis Island are finished such measures may be taken in the interest of the emigrants admitted as will permit their friends to communicate with them and to take care of them. At that time, as I further read in the note to which I am replying, it may also be possible to accommodate all those who are seeking, philanthropically or benevolently, to assist the immigrants, either by finding work for them or by protecting them from the rapacity and fraud of speculators.

Thanking your excellency for your communication, which I shall not fail to convey to my Government, I hasten to take note of the intention of the Secretary of the Treasury to provide, after the transfer of the Federal commissioners of immigration to Ellis Island, for the legitimate interests of the immigrants admitted, by enabling them to obtain assistance from the persons whose duty it is to protect them.

Accept, etc.,

FAVA.

# LYNCHING OF PERSONS OF ITALIAN ORIGIN AT TALLULAH, LA.

*Count Vinci to Mr. Hay.*

EMBASSY OF HIS MAJESTY THE KING OF ITALY,  
*Washington, July 22, 1899.*

MR. SECRETARY OF STATE: The acting royal consul at New Orleans, La., telegraphed to me last night that five Italians had been lynched by a mob at Tallulah, La.

I have answered the acting consul and have requested him to furnish more detailed information as speedily as possible.

Your excellency will do me a great favor by telegraphing to the governor of Louisiana, requesting him to send information by telegraph concerning the matter, and also to take measures for the detection of the guilty parties and the protection of Italian subjects in the aforesaid locality from mob violence, and finally to send to your excellency, with as little delay as possible, a report concerning the unfortunate occurrence.

I thank your excellency in advance for the reply with which you will be pleased to favor me as promptly as may be, and I avail myself of this occasion to reiterate to you, Mr. Secretary of State, the assurance of my highest consideration.

G. C. VINCI,  
*Royal Chargé d'Affaires of Italy.*

*Mr. Hay to Governor Foster, of Louisiana.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 22, 1899.*

Italian chargé requests report on alleged lynching at Tallulah of five Italians and asks protection of any Italian subjects who may be

in danger. Were persons lynched Italian subjects or naturalized Americans?

JOHN HAY,  
*Secretary of State.*

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*Governor Foster to Mr. Hay.*

[Telegram.]

BATON ROUGE, LA., *July 22, 1899.*

Your telegram will receive my immediate attention and will further advise you.

MURPHY J. FOSTER, *Governor.*

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*Mr. Hay to Count Vinci.*

No. 496.]

WASHINGTON, *July 24, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, with reference to the reported lynching on the preceding day of five Italians by a mob at Tallulah, La.

I at once communicated by telegraph with the governor of Louisiana in the sense requested in your said note and have received from him assurance that the matter will receive his immediate attention and that he will make a report.

In order to assure the Government of His Majesty the King of Italy that no proper course of action will be neglected by this Government, I have to-day transmitted a telegram to the embassy at Rome to inform the minister of foreign affairs that the governor of Louisiana is investigating the alleged lynching of persons born in Italy, and that this Government will take all legal steps to secure justice which the facts may warrant.

I desire to repeat the expression of the regret, already orally stated, which the President entertains at the unfortunate occurrence.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Draper.*

[Telegram.]

DEPARTMENT OF STATE,

*Washington, July 24, 1899.*

Inform minister for foreign affairs that the governor of Louisiana is investigating the alleged lynching of persons born in Italy, and that this Government will take all legal steps to secure justice which the facts may warrant.

HAY.



*Count Vinci to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, July 25, 1899.*

MR. SECRETARY OF STATE: His Majesty's Government has learned that the grand jury of Madison Parish, acting as a court of (investigation and) accusation, has reached the conclusion, in the case of the occurrence at Tallulah, after a careful investigation, that it is wholly unable to discover the names of the perpetrators of the lynching of the 20th instant, and His Majesty's Government has requested me to inform it whether the information received by it is true, and whether, if it is true, it means that no further criminal proceedings are to be instituted against the lynchers.

Should the facts really be as they have been reported to His Majesty's Government, the impression which this would create in the mind of the Government and upon public opinion in the Kingdom would be painful and disagreeable, because the outrage was an atrocious one, committed in the presence of many persons, and it is not conceivable that the guilty parties can not be identified.

The Royal Government does not wish by its action to interfere in a matter which is to be decided by the judicial authorities. It can not, however, do otherwise than call the attention of the United States Government to the contingency aforesaid, in order that it may be pleased to take measures, by the means at its disposal, as your excellency has had the kindness verbally to assure me, to the end that the demands of justice and humanity may be complied with.

I avail myself, etc.,

G. C. VINCI,  
*Royal Chargé d'Affaires of Italy.*

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*Mr. Hay to Governor Foster.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 25, 1899.*

The Italian chargé reports that the grand jury of Madison Parish has declared its inability to discover the persons who lynched the Italians at Tallulah. He desires to be informed if further efforts will be made to discover and punish the lynchers. It is my duty to remind your excellency that the treaty of the United States with Italy accords to Italian subjects the most constant protection and security for their persons and property, and I have assured the Italian Government that all legal steps will be taken in the interests of justice.

JOHN HAY,  
*Secretary of State.*

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*Governor Foster to Mr. Hay.*

[Telegram.]

BATON ROUGE, LA., *July 25, 1899.*

Your telegram making further inquiry concerning the Tallulah lynching received. I have wired the authorities of Madison Parish

requesting full history and information concerning the case and what is being done by the local authorities. I will forward reply and information as soon as it can be obtained.

MURPHY J. FOSTER.

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*Mr. Hay to Count Vinci.*

No. 497.]

DEPARTMENT OF STATE,  
Washington, July 26, 1899.

SIR: I have the honor to acknowledge the receipt of your note of July 25, in which you inform me that the grand jury of Madison Parish, acting as a court of accusation, has reached the conclusion, in the case of the occurrence at Tallulah, after a careful investigation, that it is wholly unable to discover the names of the perpetrators of the lynching of the 20th instant, and that His Majesty's Government has requested you to ascertain whether the information is true, and if true, whether it means that no further criminal proceedings are to be instituted against the lynchers.

As I am unable to confirm the information referred to in your note, I have, by telegram, requested the governor of Louisiana to furnish replies to your questions, at the same time reminding him of the treaty rights accorded to Italian subjects and informing him of the assurance already given that proper steps will be taken in the interest of justice.

In reply to my telegraphic request for information, I have received a telegram from the governor of Louisiana stating that he is making further inquiry concerning the Tallulah lynching and what is being done by the local authorities.

Accept, etc.,

JOHN HAY.

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*Mr. Iddings to Mr. Hay.*

[Telegram.]

ROME, July 26, 1899.

Dispatch about lynching received. Communicated contents to minister for foreign affairs, who wishes me to thank the Government of the United States for the same and to express his ardent wishes and his entire confidence that all steps will be taken that can be, in the first instance, to secure justice.

IDDINGS.

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*Mr. Iddings to Mr. Hay.*

No. 475.]

EMBASSY OF THE UNITED STATES,  
Rome, Italy, July 26, 1899.

SIR: I have the honor to confirm, on the second page of this dispatch, your cipher telegram<sup>1</sup> received yesterday directing me to inform the minister for foreign affairs that the governor of Louisiana is investigating the alleged lynching of persons born in Italy, and that the United States Government would take all legal steps to secure justice which the facts might warrant.

I immediately asked for an appointment with the minister for foreign affairs, the Marquis Visconti Venosta, and he received me this morning at 11 o'clock. I told him what you had instructed me, and at the same time handed him a note to the same effect. The minister requested me to thank you for your assurance, and to express his earnest wishes and his entire confidence that all steps would be taken by the United States Government to secure justice in this case. I have cabled to you to this effect in the second dispatch<sup>1</sup> confirmed on the third page.

I am, etc.,

LEWIS MORRIS IDDINGS.

*Mr. Hay to Count Vinci.*

No. 498.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1899.*

SIR: I have the honor to communicate to you the following telegram received last evening from the governor of Louisiana in reply to my telegraphic inquiries in relation to the lynching of Italians at Tallulah:

I am in receipt of the following from the sheriff of Madison Parish in reply to my telegrams of yesterday: "In conjunction with the other officials, I am investigating the recent lynching of Italians here, and shall do everything in my power to bring the guilty parties to justice. The result of these investigations will be laid before the grand jury at its next session. Written report asked for by you will be prepared and forwarded upon return of district judge, who is now absent. I have also been officially informed that three of the parties lynched were naturalized American citizens.

MURPHY J. FOSTER,  
*Governor of Louisiana, Baton Rouge, La.*

Accept, etc.,

JOHN HAY.

*Mr. Hay to Governor Foster.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1899.*

I beg to thank your excellency for your telegram of yesterday advising me of the steps taken in regard to the lynching of the Italians at Tallulah. The President is gratified and entertains the earnest confidence that nothing will be left undone to promote the ends of justice and to subserve good international relations.

JOHN HAY.

*Mr. Hay to Governor Foster.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1899.*

In view of the absence of the Italian consul from his post at New Orleans, the Italian Government has provisionally appointed Marquis

<sup>1</sup> Printed ante.

Camillo Romano, second secretary of the embassy, to be gerant of the consulate.

He has been recognized in that capacity by direction of the President. I have the honor to advise you thereof, and at the request of the Italian chargé to ask that Signor Romano be accorded due recognition and all possible consideration by the authorities of Louisiana.

JOHN HAY.

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*Mr. Iddings to Mr. Hay.*

No. 477.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, July 29, 1899.*

SIR: I beg leave to inclose herewith a clipping, with translation, from *L'Italie*, a daily newspaper printed in Rome in French, and another from the daily newspaper *La Tribuna*, also published in Rome. That from *L'Italie* is of the date of the 25th instant, and that from *La Tribuna* of the 24th. Both refer to the lynchings at Tallulah and represent fairly public opinion which gets into print. In private conversation Italians seem to understand pretty well how such incidents occur.

I have, etc.,

LEWIS MORRIS IDDINGS.

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[Inclosure 1.—Clipping from *L'Italie* of July 25, 1899.]

THE TALLULAH LYNCHING.

It is not necessary for us to describe the feelings of horror with which we are filled by the Tallulah lynching, of which our compatriots were the victims. Unhappily this detestable form of administering justice is one of the customs of the Americans of the United States, and the indignant outcries of the civilized world have not yet been able to report it. As our dispatches announce, the Italian Chargé d'Affaires at Washington has already taken the first steps to obtain reparation for the outrage, and the Federal Government will surely not refuse to accord it.

But this reparation, we do not hesitate to admit, can not go beyond a pecuniary indemnification to the families of the individuals so barbarously lynched, and this only in the event of their not having already taken the first steps toward being naturalized as Americans.

In that case the Federal Government would not be able to do anything.

A number of our confrères are astonished that in the face of a fact so abominable as the lynching of four or five human beings, it should not be possible either to claim, or obtain, a more substantial reparation than the payment of an indemnity, more or less large, to the families of the victims. Nevertheless this is the fact, and all protests against it would be futile.

The Constitution of the United States gives the President of the Republic no power over the internal affairs of the different States. The governor of Louisiana has no account to render to the President of the Confederation in regard to what takes place in his State. The governor is as powerful at home as the President is at Washington. Louisiana has its laws, its magistrates, its parliament, its customs, and if President McKinley should seek to impose his will upon it, he would receive a peremptory refusal, and not only that, but he would raise up against him the whole public opinion of America. This American Constitution is, without doubt an anomaly, above all from the European point of view. It is difficult to admit that a State should not be able to answer for the acts which take place under the shadow of its flag. All idea of reciprocity, which is the basis of good relations, falls in ~~prices~~. If in a small village of Lombardy, or Piedmont, an American had been outraged, or killed unjustly, it is the Government at Rome that would have to answer for it. It is therefore incomprehensible that the Washington Government should not do the same when an Italian is injured in Louisiana or Ohio.

*pieces ?*

However, the American Constitution is what it is, and must be so accepted. We have not the least doubt but what the Federal Government will do its duty, and that it will do it in the full measure demanded by the atrocity of this last lynching; but our confrères would do well not to expect a larger reparation than can be obtained.

Another question, and a much graver one, ought, in our opinion, to be made the subject of serious discussion in the Italian press. We ought to examine and determine just how far the protection of the Italian Government should be extended to its emigrants. For our part we maintain that it is absurd to wish to protect two million men scattered to the four corners of the earth, and who expatriated themselves solely for their own personal benefit.

There is no government in the world that can protect, under all possible and imaginary conditions, so numerous a body of men, the greater number of whom offer insufficient guaranties. The Government ought to free itself from such a burden, and declare by a law that it extends its protection only to Italians traveling abroad, and not to those who settle there for reasons of personal interest. It is the only wise measure to adopt. If the question should be seriously discussed, we would not hesitate to prove it by means of arguments, in our opinion, unanswerable. Unhappily, however, it is no longer possible to discuss thoroughly, either in Parliament or in the press, the great problems which interest the country. Could this question of protection to emigrants ever give rise to a ministerial crisis? Not at all. Therefore—(alors).

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*Count Vinci to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, August 1, 1899.

MR. SECRETARY OF STATE: The acting royal consul at New Orleans telegraphs me to-day that, after a close investigation, he has succeeded in obtaining ample evidence showing that the five persons who were barbarously lynched at Tallulah, La., on the 20th July last, were all Italian subjects.

The acting consul informs me at the same time that he has already sent me a report on the subject, accompanied by documentary evidence.

From a previous investigation made in the city of Tallulah itself by the Italian consular agent at Vicksburg, Miss., with the cooperation of a special agent of the royal consulate at New Orleans, it was already known to this royal embassy that all the said Italian subjects were put to death by popular fury without receiving from the local authorities that protection to which they were entitled. Three of them, who appear not to have taken any part in the attack which was the cause of the lynching, were confined in jail at the time when the mob seized them, and were, consequently, intrusted to the direct custody and responsibility of the American laws and authorities.

Their names are as follows: Giovanni Cirano, of Tusa; Francesco, Carlo, and Giuseppe Diffatta, of Cefalo; and Rosario Fiducia, also of Cefalo.

In communicating to you the foregoing I have the honor, by order of my Government, to again call your excellency's attention to this horrible deed of blood committed upon Italian subjects, to whom the treaties in force ought to have secured the protection of the laws and authorities of the United States.

His Majesty's Government relies upon the assurance given to it by your excellency, through this royal embassy and through the United States embassy at Rome, that the Federal Government will do everything in its power to have justice done. It can not, however, refrain from recalling the fact that the perpetrators of similar crimes have

never heretofore been brought by the competent authorities before the courts and tried.

For this reason my Government calls upon the United States Government to use all the means at its disposal to cause the competent authorities, in order to give just satisfaction to the requirements of humanity and justice, to make an effectual search for the authors and instigators of the Tallulah lynching, to bring them to trial, and at the same time to take all necessary steps to prevent the recurrence of such atrocious crimes.

If this should not be done, the Royal Government, as I have already had the honor to remark to your excellency, would experience a disagreeable and painful impression from it.

Knowing the high sense of justice by which your excellency is always actuated, I cherish the confidence that I shall speedily be enabled to inform my Government that the United States Government has neglected no means of having all those who took part in the massacre of July 20 discovered and brought to trial.

I avail myself, etc.,

G. C. VINCI.

*Mr. Adeë to Governor Foster.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, August 2, 1899.

I have the honor to advise you that the Italian chargé writes me to-day that Marquis Romano telegraphs him that he has obtained and forwarded documentary evidence, showing that the five men lynched at Tallulah were all Italian subjects, and that three of them appear not to have taken part in the attack which was the cause of the lynching, but were confined in jail at the time the mob entered. It is desirable that you send hither the evidence showing, as heretofore reported to you, that some of the men were citizens of the United States.

ALVEY A. ADEE,  
*Acting Secretary of State.*

*Governor Foster to Mr. Adeë.*

[Telegram.]

BATON ROUGE, LA., August 2, 1899.

I have wired the sheriff of Madison, requesting him to furnish me the evidence confirming his statement on the naturalization of the three Italians, and will forward his reply as soon as received.

MURPHY J. FOSTER, *Governor*

*Mr. Adeë to Count Vinci.*

No. 500.]

DEPARTMENT OF STATE, August 2, 1899.

SIR: I have the honor to acknowledge the receipt of your note of to-day's date in further relation to the pending investigation of the

circumstances of the lynching of five persons of Italian origin at Tallulah, La., on the 20th of July last.

I have pleasure in repeating to you what I said to you in personal confidence, that the Department is assured by the governor of the State of Louisiana that every effort is being put forth for the immediate and prompt application of the appropriate course of justice in this matter, and that the Government of the United States has every confidence that the assurances of the governor will be carried out so far as lies in his power.

In view of your statement that the acting royal consul at New Orleans has telegraphed to you that after a close investigation he has succeeded in obtaining ample evidence showing that the five persons lynched were all Italian subjects, and that he has forwarded to you a report on the subject, accompanied by documentary evidence, I have communicated the purport of this statement to the governor of Louisiana by telegraph, to the end that the Department may be supplied with such evidence as the authorities of the State may possess in regard to the citizenship of the lynched men.

Accept, etc.,

ALVEY A. ADEE.

*Count Vinci to Mr. Adee.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, August 3, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, whereby your excellency confirmed to me that the Department of State had received the assurance from the governor of Louisiana that every effort would be made to bring the perpetrators of the outrage committed at Tallulah to justice without delay.

Your excellency informed me by the same note that you had communicated to the governor of Louisiana the result of the investigation held by the royal acting consul at New Orleans relative to the painful occurrences at Tallulah, and that you had at the same time requested him to furnish to you all the evidence that might be in possession of the authorities of Louisiana with regard to the nationality of the victims.

Feeling confidence, as does your excellency, in the assurance given by the governor of Louisiana to the Department of State, I beg you to convey my thanks to that officer, and I avail myself of this occasion to offer you, most excellent sir, the assurances, etc.,

G. C. VINCI.

*Governor Foster to Mr. Hay.*

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,  
*Baton Rouge, August 3, 1899.*

SIR: I have the honor to acknowledge receipt of your favor confirming your telegram notifying me of the appointment by the Italian Government of Marquis Romano to be acting consul.

I have already communicated with him as such, and requested him to fix a day suitable to his pleasure to meet me in his official capacity.

I have, etc.,

MURPHY J. FOSTER.

*Mr. Adee to Governor Foster.*

DEPARTMENT OF STATE,  
*Washington, August 4, 1899.*

SIR: Referring to the correspondence already exchanged between you and this Department in relation to the lynching of certain persons of Italian origin at Tallulah, I have the honor to communicate to you a copy in translation of a note<sup>1</sup> which I have to-day received from the chargé d'affaires of Italy, in which he expresses his confidence in the assurances heretofore given by you that every effort will be made to further the ends of justice in this unhappy affair.

This Department, to which the President has confided the conduct of this matter in its international aspects, most cordially shares the confidence manifested by the Italian chargé, and is gratified to know that the authorities of the State of Louisiana will employ all legitimate means at command to visit justice upon all who may be found to have violated the laws of the State to the injury of the subjects of a friendly power.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Count Vinci to Mr. Adee.*

[Translation—unofficial.]

ITALIAN EMBASSY,  
*Washington, August 5, 1899.*

DEAR MR. ADEE: I write merely a few words, as I do not venture to come to disturb you so often, in order to remind you of the promise you made to me to take advantage of the thanks which I have asked you to convey to the governor of Louisiana to send to him a telegram in the sense of that which you yourself addressed to him on the 29th of August, 1896.

Having been heretofore informed by you on the same day of the communications which you have addressed to Governor Foster and not having received anything yesterday, I feared that you might not have yet sent the telegram in question.

This is why I have recoured to your amiability asking you to be pleased to send such a telegram this very day and to communicate to me the contents thereof.

If you send me your note by a messenger you can address it to my residence, 1537 I street.

Excuse me if I am too insistent, but I am very anxious to telegraph this evening to my Government the contents of your telegram to the

<sup>1</sup> Printed ante.



governor, which would furnish a further proof of the sincere and lively desire of the Federal Government that justice shall be done.

I thank you forthwith, and I beg you to accept, etc.,

VINCI.

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*Mr. Adee to Count Vinci.*

DEPARTMENT OF STATE,

*Washington, August 5, 1899.*

SIR: I have your personal note of this morning, and in reply it gives me pleasure to tell you I wrote on yesterday to the governor of Louisiana, sending him a translation of your note of the 4th, and adding an expression of the confidence here felt in the assurances which he has repeatedly given to the Department with regard to the Tallulah lynching. I could not well have done so by telegram, as that would involve embodying the text of your note.

With best regards, etc.,

ALVEY A. ADEE.

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*Governor Foster to Mr. Hay.*

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,

*Baton Rouge, La., August 5, 1899.*

SIR: I have the honor to transmit herewith copies from the official records of the parish of Madison, showing that three of the Italians lynched at Tallulah were in fact naturalized American citizens.

As soon as the other reports reach me I shall forward them to you without delay.

I have, etc.,

MURPHY J. FOSTER,  
*Governor of Louisiana.*

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[Inclosure 1.]

*Naturalization certificate of Charles Defatta.*

*To the honorable judge of the Seventh district court for the  
State of Louisiana and parish of Madison:*

The petition of Charles Defatta, a native of the Kingdom of Italy, with respect shows that he has been an actual resident of this State for more than six years and of the parish for more than two and one-half years, and that he desires to become a citizen of the United States and to renounce any and all allegiance and fidelity to every foreign prince, potentate, state, government, and sovereignty, and he particularly renounces allegiance to the sovereign ruler of the Kingdom of Italy, and swears allegiance to the Government and ruler of the United States of America.

Before me the undersigned authority, on this 28th day of June, 1899, came and appeared Charles Defatta, who on oath declared that all the statements in the foregoing application are true, and that he will support the Constitution and laws of the United States of America and of the State of Louisiana.

CHARLES (his x mark) DEFATTA.

Sworn to and subscribed before me this 28th day of June, 1899.

W. H. HARVEY,  
*Clerk District Court.*

STATE OF LOUISIANA, *Parish of Madison:*

The foregoing application and affidavit considered, the said application is granted and Charles Defatta is declared to be a citizen of the United States and of the State of Louisiana this 28th day of June, 1899.

Witness the Hon. F. F. Montgomery, judge of the court, and the official seal hereof this 28th day of June, 1899.

W. H. HARVEY,  
Clerk Seventh District Court.

A true copy of the original now on file and of record in my office.  
Witness my signature and official seal this 4th day of August, 1899.

[SEAL.]

W. H. HARVEY,  
Clerk and ex officio Recorder.

[Inclosure 2.]

*Naturalization certificate of Syha Deferach.*

*To the honorable judge of the Seventh district court for the  
State of Louisiana and parish of Madison:*

The petition of Syha Deferach, a native of the Kingdom of Italy, with respect shows that he has been an actual resident of this State for more than six years and of the parish for more than two and one-half years, and that he desires to become a citizen of the United States and to renounce any and all allegiance and fidelity to every foreign prince, potentate, state, government, and sovereignty, and he particularly renounces allegiance to the sovereign ruler of the Kingdom of Italy, and swears allegiance to the Government and ruler of the United States of America.

Before me, the undersigned authority, on this 28th day of June, 1899, came and appeared Syha Deferach, who on oath declared that all the statements in the foregoing application are true, and that he will support the Constitution and laws of the United States of America and of the State of Louisiana.

SYHA DEFERACH.

Sworn to and subscribed before me this 28th day of June, 1899.

W. H. HARVEY,  
Clerk District Court.

STATE OF LOUISIANA, *Parish of Madison:*

The foregoing application and affidavit considered, the said application is granted and Syha Deferach is declared to be a citizen of the United States and of the State of Louisiana this 28th day of June, 1899.

Witness the Hon. F. F. Montgomery, judge of the court, and the official seal hereof this 28th day of June, 1899.

W. H. HARVEY,  
Clerk Seventh District Court.

A true copy of the original now on file and of record in my office.  
Witness my signature and official seal this 4th day of August, 1899.

[SEAL.]

W. H. HARVEY,  
Clerk and ex officio Recorder.

[Inclosure 3.]

*Naturalization certificate of Frank Defatta.*

*To the honorable judge of the Seventh district court for the  
State of Louisiana and parish of Madison:*

The petition of Frank Defatta, a native of the Kingdom of Italy, with respect shows that he has been an actual resident of this State for more than six years and of the parish for more than two and one-half years, and that he desires to become a citizen of the United States, and he renounces any and all allegiance, and does hereby renounce any and all allegiance and fidelity to every foreign prince, potentate, state, government, and sovereignty, and he particularly renounces allegiance to the sovereign ruler of the Kingdom of Italy and swears allegiance to the Government and ruler of the United States of America.

Before me, the undersigned authority, on this 8th day of November, 1895, came Frank Defatta, who on oath declared that all the statements in the foregoing applica-

tion are true, and that he will support the Constitution and laws of the United States of America and of the State of Louisiana.

FRANK DEFATTA.

Sworn to and subscribed before me this 8th day of November, 1895.

JOS. L. SLACK, *Clerk ad int.*

STATE OF LOUISIANA, *Parish of Madison:*

The foregoing application and affidavit considered, the said application is granted and Frank Defatta is declared to be a citizen of the United States and of the State of Louisiana this 8th day of November, 1895.

Witness the Hon. F. F. Montgomery, judge of the court, and the official seal hereof this 8th day of November, 1895.

J. L. SLACK, *Clerk ad int.*

A true copy from the original now on file and of record in my office.

Witness my signature and official seal this 4th day of August, 1899.

[SEAL.]

W. H. HARVEY,  
*Clerk and ex officio Recorder.*

*Count Vinci to Mr. Adeë.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, August 8, 1899.*

SIR: Referring to the note of this royal embassy bearing date of the 1st instant, I have the honor herewith to transmit to your excellency a copy of the report which has been received by me from the Chevalier Romano, in charge of the royal consulate at New Orleans, relative to the investigation held by him concerning the lynching of five Italian subjects, which recently took place in the State of Louisiana.

Feeling fully persuaded that from a perusal of said report and of the inclosures which accompany it your excellency will become more fully convinced that a lynching was never more atrocious, and that it assumed this criminal form in order that these foreigners whose business was thought to interfere with that of the residents of Tallulah might be put out of the way, I avail myself of this occasion to reiterate to you, honorable sir, the assurances, etc.,

G. C. VINCI.

[Inclosure No. 1.]

*Report of the acting consul of Italy at New Orleans to the royal embassy at Washington.*

VICKSBURG, MISS., *August 1, 1899.*

MR. CHARGÉ D'AFFAIRES: I have the honor to inform your excellency that I reached New Orleans on the evening of the 29th ultimo. On the day following (July 30), with the assistance of Mr. Papini, I perused the documents relating to the lynching at Tallulah.

Having thought proper to go to Vicksburg, in which city I had learned, from the inquiries made, that the persons lynched had friends and business relations, I left on the evening of the same day and arrived at Vicksburg in the night.

The next morning, July 31, assisted by the Chevalier Piazza, our consular agent in that city, I found out one Giuseppe Difina, or Diffina, son of the late Matteo Difina, or Diffina, of Cefalu, Palermo. This Giuseppe Difina, or Diffina, was a brother-in-law of the Difatta brothers, and I took his sworn testimony. I also took that of Saverio Romano, son of Andrea Romano, deceased, of Salerno. This Saverio Romano was well acquainted with the men who were lynched, and had relations of friendship and business with them.

I secured, at the same time, a copy taken from the records of the district court of

Madison Parish, in which Tallulah is situated, of the applications made by the Difatta brothers to become American citizens.

From the five aforesaid documents it appears that Francesco Difatta made his first application for American citizenship November 8, 1895; that Carlo Difatta, whose real name seems to have been Pasquale Difatta, made his June 28, 1899; and that Giuseppe Difatta made his on the same day. The last-named person, however, made his application under the name of Siha Deferach. It appears, moreover, from the aforesaid documents, that Giovanni Cerami had been in America but a few months, and that Rosario Fiducia, although he had been many years in America, had, during the four years that he had lived at Tallulah, not expressed any intention of becoming an American citizen, and that both he and Cerami were considered as Italian citizens.

The Italian citizenship of all the five lynched persons does not, therefore, seem doubtful, since, while it appears, until evidence to the contrary is furnished, that two of them had never applied for American citizenship, in the case of the other three who had done so the period of five years had not expired which is required by the Constitution of the United States for the obtainment of full citizenship by means of a second application.

#### THE LYNCHING.

From all that I have learned here from persons who had frequent relations with Tallulah, and who had visited that place after the lynching, it took place in the following manner. These particulars were furnished by Dr. Robin, who went to Tallulah for the purpose of attending Dr. Hodge, and by Mr. A. B. Dunn, a lawyer, who likewise went to Tallulah on the day after the lynching, and heard the details from the people of the village, from the sheriff, and the district attorney. The statement of the latter, in the form of a letter, is inclosed:

The village of Tallulah has from 500 to 600 inhabitants. Exclusive of the colored population, the male population consists of from 60 to 70 persons. At the time when the unfortunate occurrence took place this population was somewhat increased, because the grand jury was in session, and some men had come there from the neighboring towns for that reason.

The Difatta brothers had two stores at Tallulah. The sketch which is herewith inclosed shows where they were situated, the place where the quarrel occurred, and where the five Italians were arrested.

The behavior of these men had always been good, and, although they were of a vivacious temperament, they had never had any difficulty with anyone during the four years that they had resided in the village. The Difatta brothers enjoyed a certain degree of popularity there, especially Francesco, who frequently associated with the most prominent persons of the neighborhood and drank and played cards with them.

They carried on the grocery business and the sale of alimentary substances with a certain degree of success, and on this account they were regarded with secret animosity. The incident which gave rise to the quarrel that had such a tragic ending was, indeed, provoked by a goat belonging to Francesco Difatta. This goat was in the habit of climbing up on the balcony of the doctor's house, and, as he finally became annoyed thereby, he shot the goat.

Francesco was grieved and remonstrated with the doctor the next day, but their conversation, although heated, had no serious consequences.

The one who started the quarrel was not Francesco, but his brother Carlo, alias Pasquale. He took the killing of the goat more to heart than Francesco did, and when the doctor passed by his store he came out and spoke harshly to him and finally gave him a blow with his fist. Carlo was not armed either with a pistol or a knife.

The doctor then drew a revolver and fired, hitting Carlo in the forehead. Carlo fell, and the doctor put his foot on him, because he was unable to fire any more shots from his revolver. He opened it in order to see what was the matter with it, intending to fire a second shot at Carlo. Then it was that Giuseppe Difatta, who saw from the balcony of his house the danger in which his brother was, fired a shot at the doctor from a gun loaded with bird shot, hitting him while he was standing in the attitude above described.

This having been done, Giuseppe withdrew into his house, and Carlo, having got up, concealed himself in a neighboring house.

The story was immediately spread abroad that the Italians had killed Dr. Hodge. The crowd rapidly increased and quickly went in search of Carlo and Giuseppe, while the sheriff, with others, went to Francesco's store, where were young Cerami and

Rosario Fiducia. That they had taken no part in the quarrel is shown by the confession made to Mr. Dunn by the sheriff, viz, that when he went to arrest them Cerami was in front of the store with his back to the street. All three were taken to jail.

Meanwhile the crowd found Giuseppe in his house, and, after looking for Carlo for some time, they found him in a neighboring house. He was there struck in the stomach. Both were then dragged to the slaughterhouse for swine and were there hanged.

The mob, intoxicated with blood, then repaired to the jail, took out Francesco Difatta and Rosario Fiducia, and hanged them in the court-house yard. Before Francesco was hanged he said, "Gentlemen, do you wish to kill me? I have always thought you were my friends." Not yet satiated, the lynchers returned to the jail, took Cerami, and hanged him also.

Many residents of the village of Tallulah were the perpetrators of the lynching. Everybody knows the names of the principal lynchers.

Accept, etc.,

ROMANO.

[Inclosure 2.]

In the year 1899, on the 31st day of July, at Vicksburg, Miss., before us, Camillo Romano, secretary of the royal embassy at Washington, assisted by Mr. Giovanni Brunini, advocate, employed in the capacity of chancellor, appeared Mr. Giuseppe Difatta, son of Matteo Difatta, deceased, a native of Cefalù, Palermo, who, having made oath in due form of law, deposed as follows:

I have resided in America for more than nine years and for three at Milliken Bend, La., which village is 5 miles distant from Tallulah, where the lynching of the Difatta brothers took place. I had a fruit and grocery business there, and I abandoned it because I was advised to flee, as my life was in danger. I am a brother-in-law of Francesco, Giuseppe, and Carlo Difatta, having married their sister. Carlo Difatta's real name was Pasquale Difatta. The three brothers were born in Cefalù, where their mother, Teresa Difatta, née Scotola, still lives. Francesco and Giuseppe Difatta had been in America about six years; Carlo, alias Pasquale, about two years. I know that Francesco Difatta took out his first papers about four years ago. As to Carlo and Giuseppe, they told me two or three months ago that they also intended to take out naturalization papers. I do not know whether they carried out their purpose. As to the other two men who were lynched, viz, Rosario Fiducia and Giovanni Cerami, the former had been at Tallulah about four years, but he had previously been in Louisiana, in what place I know not. Giovanni Cerami was a native of Tusa, Messina, and had been in America only a few months. Rosario Fiducia has a brother in Cefalù, viz, Pasquale Fiducia, son of Niccolò Fiducia, deceased, and he also has a wife and three children there. Giovanni Cerami likewise has a father and mother and brothers living at Tusa. Of the lynching and of the reasons which led to it I know nothing, not having been on the ground and having myself been obliged to flee. Rosario Fiducia also has a sister named Rosaria, who is married to Vincenzo de Pacla, of Cefalù, who now resides at Indianapolis, Ind.

We have put the foregoing statement in writing, and, having been read, it has been ratified by the witness and the chancellor, with us, the undersigned.

[L. S.]  
[L. S.]  
[L. S.]

GIUSEPPE DIFATTA.  
JOHN BRUNINI.  
C. ROMANO.

[Inclosure 3.]

In the year 1899, on the 31st day of July, before us, Camillo Romano, secretary of the royal embassy at Washington, on a mission for the investigation of the lynching at Tallulah, at the office of the consular agent of Italy at Vicksburg, Miss., assisted by Mr. Giovanni Brunini, advocate, employed in the capacity of chancellor, appeared Saverio Romano, son of Andrea Romano, deceased, of Salerno, who, after having made oath before us in due form of law, deposed as follows:

As to the nationality of the men who were lynched, I know that Frank Difatta had taken out his first papers; of the others I know nothing. As to the reasons for the lynching and the manner in which it took place, I can say nothing of my own personal knowledge, not having been on the ground; but from what was told me by a person who went to Tallulah on the day after the lynching on business for me, viz, Mr. A. B. Dunn, and also from what was told me by the undertaker who buried the

bodies at Vicksburg, it would appear that in the quarrel between Dr. Hodge and Pasquale Difatta the doctor was the first who fired a shot with a revolver. Pasquale, alias Carlo Difatta, was hit in the forehead; at least so I was told. As to the good conduct of the persons lynched, nothing could be said against them; they never had a difficulty with anyone. It is true that Francesco Difatta fired, four years ago, at a negro who had come to his store at night for the purpose of stealing, but he was discharged by the court.

We have drawn up the foregoing statement in writing, and it has been read and ratified by the witness, the chancellor, and by us the undersigned.

[L. S.]  
[L. S.]  
[L. S.]

SAVERIO ROMANO.  
JOHN BRUNINI.  
ROMANO,  
*Secretary of the Embassy.*

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*Mr. Adee to Count Vinci.*

No. 502.]

DEPARTMENT OF STATE,  
*Washington, August 9, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, with which you transmit to me copy of the report submitted to you by the Chevalier Romano, gerant of the royal consulate at New Orleans, in pursuance of the instructions given him to investigate the lynching of five persons of Italian origin, which recently occurred in the State of Louisiana.

The report and the accompanying documentary proofs will have the careful attention of this Department, in connection with a report to be received from his excellency the governor of Louisiana, as the result of the investigation which he has ordered, and in connection also with the result of the action to be taken by the judicial branch of the State authority.

Permit me in passing to advert to the statement of Signor Romano that the five copies of the judicial records of the district court of the seventh district of Louisiana and parish of Madison, copies of which were inclosed by him, show "that Francesco Difatta presented his first request for American citizenship November 8, 1895; Carlo Difatta (whose true name would seem to be Pasquale Difatta), who, however, presented his application under the name of Siha Deferach." The three papers you sent me, and which are thus referred to by Signor Romano, appear, however, upon examination to be the full and final record of a competent court admitting Charles Defatta, Frank Defatta, and Seha Deferach to citizenship of the United States and of the State of Louisiana. The form employed is entirely different from the preliminary declaration of intention. The evidence furnished in regard to these three men by Signor Romano agrees with the judicial record of the district court for the seventh district of Louisiana and parish of Madison, certified copies of which, under the seal of the court, have been communicated to me by his excellency the governor of Louisiana.

Accept, etc.,

ALVEY A. ADEE.

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*Mr. Adee to Governor Foster.*

DEPARTMENT OF STATE,  
*Washington, August 9, 1899.*

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, communicating copies from the official records of the

parish of Madison, La., showing that three of the Italians lynched at Tallulah were naturalized American citizens.  
I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to Governor Foster.*

DEPARTMENT OF STATE,  
*Washington, August 11, 1899.*

SIR: I have the honor to communicate to you herewith a copy, in translation, of the report<sup>1</sup> made to the Italian embassy in this capital by the gerant of the Italian consulate at New Orleans, Marquis Camilo Romano, in regard to the lynching of five persons of Italian origin at Tallulah, parish of Madison, on the 20th of July last, together with translations and copies of the annexes thereto, all of which have been submitted to this Department by the chargé d'affaires of Italy under date of the 8th instant.

As regards the citizenship of the lynched men, you will observe that Signor Romano submits copies of the three certificates of the naturalization of Charles, Frank, and Joe Difatta (the last under the alias of Siha Deferach), of which you sent me certified transcripts with your letter of August 5, and that he erroneously regards these certificates as "first papers" of declaration of intention. In respect to those certificates I may observe:

1. *Frank Difatta*.—Record of admission to citizenship dated November 8, 1895. Giuseppe Diffina makes oath that Francesco (Frank) Difatta had been in America "about six years;" i. e., since July, 1893. If so, he could only have been in the United States about a year and a half when naturalized.

2. *Charles Difatta*.—Record of admission to citizenship dated June 28, 1899. Giuseppe Diffina's affidavit alleges that he had been in America "about two years," although in Charles's application he swears to more than six years' residence. It appears uncertain whether his true name was Carlo (Charles) or Pasquale.

3. *Siha Deferach*.—Marquis Romano's report appears to admit that Giuseppe (Joseph) Difatta was naturalized under the name of Syha Deferach. The court record of admission to citizenship is dated June 28, 1899, more than six years' residence in Louisiana being averred in the application. This agrees with Giuseppe Diffina's affidavit that Giuseppe Difatta had been in America "about six years."

To meet any possible attempt to impugn the naturalization of these three men on the ground of alleged ineligibility, false swearing, or simulated identity, with consequent fraud upon the naturalizing court, the date of immigration of the three men, the place and date of their making the preliminary declaration of intention, their respective ages, and the identity of Giuseppe (Joseph) Difatta with the Syha Deferach to whom the certificate was given, would seem to be proper subjects for ascertainment. I proffer this suggestion confidentially with a view to supplying this Department with all available matter for eventual discussion of the points involved should the contingency arise in the

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

diplomatic way. You may recall that on the previous occasion of the lynching of certain Italians at Hahnville, St. Charles Parish, in 1896, the Department found it expedient to send a special agent to investigate the question of the citizenship of the lynched men.

I have acknowledged the note of the Italian chargé d'affaires by saying that—

The report and the accompanying documentary proofs will have the careful attention of this Department, in connection with a report to be received from his excellency the governor of Louisiana, as the result of the investigation he has ordered and in connection also with the result of the action to be taken by the judicial branch of the State authority.

Awaiting those reports, and with renewed expression of the conviction felt by the Government of the United States that the authority of the State will be exerted by all means at lawful command to the end of enforcing justice against any who are found to have infringed the law, and in protection of all imperiled interests,

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary of State.*

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*Count Vinci to Mr. Adee.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, August 20, 1899.*

SIR: In your excellency's note of the 9th instant, in reply to my previous communication of the 8th instant, in which I had the honor to transmit to your Department of State the report which I had received from Cavaliere Romano concerning the Tallulah lynching, you alluded to the weight of the documents issued by the district court of the seventh district of Louisiana and parish of Madison to the three Difatta brothers, which documents accompanied the said report of Cavaliere Romano.

Your excellency remarked that it appears from those documents that, by a decision of a competent court, the Difatta brothers had acquired full and final rights as citizens of the United States and of Louisiana.

As this construction does not agree with that which I placed upon the documents in question, I have the honor to set forth the reasons which have induced this royal embassy to come to the opposite conclusion.

According to the laws of the United States, as stated in section 2165 et seq. of the Revised Statutes of the United States, a foreigner may become a citizen of the United States in the following order and in no other:

1. He must make a declaration under oath, at least two years before his definite admission to citizenship, that it is his intention to become a citizen of the United States.

2. At the time of his admission, at least two years after the first declaration, he must make a second declaration, renouncing all allegiance to any other sovereign, etc.

This being the case, the documents issued by the district court of



the seventh district of Louisiana, parish of Madison, not being in conformity with the provisions of the said sections of the Revised Statutes of the United States, do not appear to this royal embassy strictly regular, or such as to confer full United States citizenship upon the Difatta brothers.

They must either be regarded as the first naturalization papers—and in that case the decision of the said district court is irregular and void, because, contrary to the laws of the United States, it was pronounced, not after at least two years, but on the very day on which the Difatta brothers made their first declaration of intention—or they must be regarded as second and final naturalization papers, and the irregularity is evident in this case likewise, because it appears from the documents themselves that the first declaration of intention, instead of having been made at least two years previously, as required by the laws of the United States, was not made by the Difatta brothers until the very day on which the said district court declared them citizens of the United States.

For these reasons this royal embassy is of the opinion that Francisco, Carlo (alias Pasquale), and Giuseppe Difatta had not acquired United States citizenship and were still Italian subjects.

I shall be much obliged to your excellency if you will kindly inform me of the views of the Department of State with regard to the foregoing opinions; and, thanking you in advance, I avail myself, etc.,

G. C. VINCI.

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*Mr. Hay to Count Vinci.*

No. 513.]

DEPARTMENT OF STATE,  
Washington, September 1, 1899.

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo in further relation to the citizenship of the persons of Italian birth lynched at Tallulah, La., in July last. Referring to the statement in Mr. Adee's note of the 9th ultimo, that the documents issued by the district court of the seventh district of Louisiana and parish of Madison, copies of which accompanied the note from your embassy of August 8, appeared to be the full and final record of a competent court admitting Charles Difatta, Frank Difatta, and Seha Deferach to citizenship of the United States, you set forth the reasons which have induced your embassy to reach a different conclusion.

Careful consideration has been given to your objections to the judgments of naturalization mentioned in your note, in which it is argued that the said judgments "do not appear strictly regular or such as to confer full United States citizenship," and that the "documents issued by the district court of Louisiana must either be regarded as the first naturalization papers—and in that case the decision of the said district court is irregular and void—or they must be regarded as second and final naturalization papers, and the irregularity is evident in this case likewise, because it appears from the documents themselves that the first declaration of intention \* \* \* was not made \* \* \* until the very day on which the said district court" rendered the judgments of citizenship.

The record is silent on the point whether the first declaration was made or not, and therefore I can not concur in your statement that

“it appears from the documents themselves that the first declaration of intention was made.”

Are the documents, then, to be regarded as the first or the final naturalization papers?

The right and the ceremony of naturalization are exclusively determined by the domestic laws of the country according to the privilege of naturalization. The second clause of section 2165, Revised Statutes of the United States, prescribes what the applicant shall declare at the time of his application to be admitted, “which proceedings shall be recorded by the clerk of the court.” These proceedings were recorded by the clerk of the court in these cases, and also the judgment of the court that the applicant “is declared to be a citizen of the United States and of the State of Louisiana.” The judgment was therefore in conformity with the statutes.

In the case of *Stark v. The Chesapeake Insurance Company* (7 Cranch, 421) the same contention was made in substance as in your note, but the Supreme Court decided adversely to the contention. In the case of *The Mutual Benefit Life Insurance Company v. Tisdale* (91 U. S., 238) the court was of opinion that a certificate of naturalization from a court of record on proper proof of residence and age is valid; and in the case of *Campbell v. Gordon* (6 Cranch, 179) the opinion was expressed by the court that it was not necessary to the validity of the naturalization that the record should show that proof was made of the moral character of the applicant, although proof of such fact is required by the third clause of said section.

It therefore follows that the two said applications and the record thereof, being in conformity with the second clause of said section, are, together with the said judgments, to be regarded as the final naturalization papers and as sufficient proof of the naturalization of said parties.

Be pleased to accept, etc.,

JOHN HAY.

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*Mr. Adee to Baron de Fava.*

[Personal.]

DEPARTMENT OF STATE,  
*Washington, September 11, 1899.*

EXCELLENCY: I have the pleasure to tell you that after consulting the President I have to-day sent to the governor of Louisiana a telegram to the effect that you have inquired what progress has been made by the State authorities in the investigation of the lynching of Italians at Tallulah, and that the President had requested me to express to the governor the gratification it would afford him to be enabled to assure you, what he can not doubt, that the justice of the State proves potential for the pursuit and punishment of the offenders.

Adverting to your inquiry about the United States law in regard to the bringing of suits for damages by aliens in the courts of the United States I find that under section 629 of the Revised Statutes as amended by the act of August 13, 1888, alien subjects may sue citizens of the United States in the circuit court of the United States in the district where the alien resides. This was stated by Mr. Blaine in his note of April 14, 1891, to the Marquis Imperiali, when he said:

The right to judicial remedy which Mr. Webster assured to the Spanish subjects is likewise assured to the Italian subjects. The right is specially guaranteed in the

second section of the third article of the Constitution. And, as Mr. Webster points out, the resident alien has a privilege which is denied to the citizen. The widows and children of the citizens who lost their lives by mob violence may sue the leaders and members of the mob only in the courts of the State of Louisiana, while the widows and children of the Italian subjects who suffered death have the right to sue each member of the mob, not only in the State courts, but also the Federal tribunals for the district of Louisiana. (Foreign Relations, 1891, p. 684.)

The situation in this regard is the same as it was in 1837, when the Attorney-General, Benjamin F. Butler, advised the President in a case where two Frenchmen domiciled in New Orleans had been maltreated that—

While we have no act of Congress giving to the courts of the United States jurisdiction of the criminal offense if those offenders are citizens of Louisiana, the parties injured may, as aliens, bring their actions for damages in the circuit court of the United States for the State of Louisiana. (See Opinions of the Attorneys-General, vol. 3, p. 254.)

I am, etc.,

ALVEY A. ADEE.

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*Mr. Adee to Governor Foster.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, September 11, 1899.

The Italian ambassador inquires what progress has been made by the State authorities in the investigation of the lynching of Italians at Tallulah. The President requests me to express to you the gratification it would afford him to be enabled to assure the ambassador, what he can not doubt, that the justice of the State proves potential for the pursuit and punishment of the offenders.

ALVEY A. ADEE,  
Acting Secretary of State.

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*Governor Foster to Mr. Hay.*

[Telegram.]

BATON ROUGE, LA., September 13, 1899.

I forward by mail to-day the report of the judge and district attorney in the case of the alleged lynching of Italian citizens in the parish of Madison.

MURPHY J. FOSTER,  
Governor of Louisiana.

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*Mr. Adee to Baron de Fava.*

DEPARTMENT OF STATE,  
Washington, September 13, 1899.

EXCELLENCY: I am in receipt this afternoon of a telegram from his excellency the governor of Louisiana stating that he has forwarded by mail to-day the report of the judge and district attorney in the case of

the lynching of persons of Italian birth in the parish of Madison in July last.

Upon receipt of this report I shall have pleasure in giving it my immediate consideration and in further communicating with you.

I am, etc.,

ALVEY A. ADEE.

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*Baron Fava to Mr. Adee.*

[Translation.]

ITALIAN EMBASSY,

*Washington, D. C., September 14, 1899.*

DEAR MR. ADEE: I have this moment received the letter which you were so good as to address to me yesterday to inform me most courteously of the receipt of the telegram whereby his excellency the governor of Louisiana advises you that he sent yesterday by post the report of the judge and the district attorney relative to the lynching of which certain Italian subjects dwelling in Madison Parish were the victims in the month of July last.

In thanking you for this communication, and for the kind intention you express to me to examine without delay the report in question and communicate with me on the subject thereafter, I would meanwhile be extremely grateful if you would let me know by the bearer of this letter if, in the aforesaid telegram, the governor informs you that the guilty parties have been found and arrested, or at least if justice is upon their track.

You would much oblige, etc.,

FAVA.

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*Mr. Adee to Baron de Fava.*

DEPARTMENT OF STATE,

*Washington, September 14, 1899.*

EXCELLENCY: Answering your note of to-day, I beg to say that the sense of the governor's telegram was almost textually given in my note to you, and that it is silent as to the details you mention.

Hastily, etc.,

ALVEY A. ADEE.

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*Governor Foster to Mr Hay.*

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,

*Baton Rouge, September 14, 1899.*

SIR: Absence from my office has prevented an earlier compliance with your telegraphic request of the 11th instant in relation to the report in the case of the alleged lynching of the Italian citizens in the parish of Madison, this State.

I herewith inclose the official report of the sheriff, with the indorsement of the judge and district attorney of that district, showing the result of the investigation there had, and which I hope will prove satisfactory to you.

I have, etc.,

MURPHY J. FOSTER.

[Inclosure.]

*Report of sheriff.*

TALLULAH, LA., August, 1899.

DEAR SIR: In reply to your request for a statement of the facts of the lynching of the five men at this place on July 20, I have the honor to report as follows:

The victims of the mob's violence were fruit venders. Four of them have shops in the town of Tallulah, which they used as headquarters, from which they sold their goods, mainly by peddling in the surrounding country. They are supposed to have been Sicilians or Italians, and their names are supposed to have been Frank Deffeta, Charles Deffeta, Joe Deffeta (brothers), John Cyrano, and Syha Defferach. The latter, a cousin of the Deffetas, appears to have had numerous aliases.

On the morning of July 20 Frank Deffeta went to the office of Dr. Hodge, with whom he had some words about a goat belonging to Frank, which the doctor had shot at the previous night because it was disturbing him by trespassing on the gallery of the house where the doctor slept, the goat being at large in violation of a local ordinance. Frank made some threatening remarks to Dr. Hodge at that time. Just about dark that evening as Dr. Hodge was on his way home, having to pass the shops of Joseph and Charles Deffeta, which were located in the same building, Charles and Joe were standing on the steps of their shops, and as the doctor approached Charles Deffeta struck at him with a knife, the blow of which Dr. Hodge warded off with his arm, at the same time drawing his pistol, with which he struck his assailant over the head. It appears that the two men struggled for some time, when the doctor fired one shot, which did not take effect. At this point Joe Deffeta, from his gallery, fired both barrels of a shotgun at Dr. Hodge at close range, the contents taking effect in his stomach, arms, and hands. Upon hearing these shots I proceeded to the scene of the shooting and found Frank Deffeta, Syha Defferach, and John Cyrano, one armed with a shotgun and the other two with pistols, running toward the scene of the shooting. With the assistance of citizens I disarmed these three men, after some resistance, and placed them in jail. In the meantime Charles Deffeta had barricaded himself in his shop and defied arrest, whereupon I summoned a posse of citizens and broke into his store and arrested him. Joe Deffeta had concealed himself under an adjoining house, where he was discovered and arrested. I proceeded with these two men toward the jail, when I and my deputies were overpowered by a mob of angry men, who took the prisoners and hung them a short distance out of town. The mob then overpowered the jailer, secured the keys from him, took the other three men from the jail and hung them. This action was done in spite of the protest of myself and other officers of the court.

The character and reputation of these Sicilians was very bad in this community. Joe Define, a relative and associate of theirs, who has left here since the lynching, had waylaid and assassinated a man here, killing his victim with a shotgun as he passed Define's shop, and had escaped punishment. Frank Deffeta had shot and killed a negro with slight provocation, and had also escaped punishment. The deceased Sicilians had been implicated in a number of acts of violence, and were regarded as desperate and criminal characters. Dr. Hodge's friend had noted the peculiar actions of the Sicilians on the day of the shooting, because Defferach kept his store closed, and spent the day with Cyrano and Frank Deffeta, at the latter's store, and Charles Deffeta closed his store and spent the afternoon at the same place, where something unusual seemed to be going on. Observing these movements, and knowing the character of the men, several of Dr. Hodge's friends had warned him during the day to be on his guard, as the Sicilians would likely give him trouble. Charles Deffeta left his companions late in the afternoon, passing by Dr. Hodge's office, with whom he exchanged pleasant greetings, and proceeded to his shop, where he waited for Dr. Hodge to pass, and as he passed, without a word of warning, struck at him with a knife. Dr. Hodge had never had an unpleasant word with this man, which seems to bear out the theory that there was a conspiracy formed to murder Dr. Hodge, and that Charles Deffeta was selected to do the deed. This was the view the people took of the matter, and this, coupled with the fact that they were all taken with arms in their hands, apparently ready to carry out designs of bloodshed against a prominent citizen and public official of high standing, so enraged the citizens that it was impossible to restrain them from inflicting summary punishment as they did.

Frank and Charles Deffeta and Syha Defferach were naturalized citizens of the United States and of the State of Louisiana, as shown by the court records of this parish.

The night of the lynching was cloudy and dark, and I was unable to identify any of the perpetrators, but, in conjunction with the district attorney, I am investigating this matter, and will do all in my power to discover and arrest the perpetrators of

the lynching. I shall be glad to advise you further upon the results of the investigation of this matter at any time you may desire me to do so.

Very respectfully,

C. H. LUCAS, *Sheriff.*

The foregoing is a correct statement of the unfortunate occurrences of the 20th of July as far as my knowledge extends. As district judge, I shall call the attention of the grand jury to the matter at the next jury term, having already submitted it to the present grand jury.

F. F. MONTGOMERY,  
*Judge Seventh Judicial District.*  
WM. S. HOLMES,  
*District Attorney.*

*Baron Fava to Mr. Adee.*

[Telegram.—Translation.]

LENOX, MASS., *September 19, 1899.*

Anxious to learn the contents of New Orleans report and your appreciations upon it. Am waiting for kind and prompt information, urgently requested from my Government. Thanks.

FAVA.

*Mr. Adee to Baron de Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 20, 1899.*

EXCELLENCY: The report sent thither by the governor of Louisiana comprises a report by the sheriff of Madison Parish and an indorsement by the judge. From the latter it appears that the grand jury was unable to find an indictment upon the facts before it, and that the matter will be laid anew before the grand jury. The sheriff's report deals mainly with the incidents preceding and attending the lynching. As its statements do not fully accord with those heretofore received, it is thought that discussion and possibly fruitless controversy over unessential details may be avoided by this Government obtaining for itself more precise information, and it will be held in abeyance pending the report to be made by a special agent who will be sent forthwith to make the necessary investigations on the spot.

ALVEY A. ADEE.

*Baron Fava to Mr. Adee.*

[Telegram.—Translation.]

LENOX, MASS., *September 21, 1899.*

Thanks for your telegram. The first duty of sheriff was to trace the guilty parties and bring them to justice. Am surprised and deplore that he failed to do his duty. I feel certain that your special agent will not follow his example and that he will discover and denounce the criminals, which is an easy task in such a small locality as Tallulah. Please hasten his departure and kindly wire me when the next grand

jury will meet. You know that I ask nothing but that such great crime should not remain also this time unpunished.

FAVA.

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*Mr. Hill to Baron de Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, September 21, 1899.

Answering the inquiry contained in your telegram of to-day to Mr. Adee, I have to say that the judge's report to the governor does not give the date when the next grand jury will meet. I have asked the governor by telegraph.

DAVID J. HILL.

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*Mr. Adee to Baron de Fava.*

DEPARTMENT OF STATE,  
Washington, September 21, 1899.

EXCELLENCY: I duly received your telegram this morning. Of course you understand that, in the actual status of the matter and in the absence of Federal jurisdiction over an offense committed in a State, the agent whom we are to send to Tallulah can not assert any part in the local administration of justice, but is sent to collect information for the Department's consideration and such action thereon as may be in order. His functions will be the same as that of Mr. W. H. Phillips, who, as you remember, was sent to Hahnville a few years ago under somewhat similar circumstances.

I am, etc.,

ALVEY A. ADEE.

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*Baron Fava to Mr. Hill.*

[Telegram.—Translation.]

LENOX, MASS., September 23, 1899.

Thanks for your kind telegram of 21st instant. As soon as you know when grand jury shall meet please wire me. You will also greatly oblige me by forwarding me, if possible, copy of report of governor Louisiana with its inclosures.

FAVA.

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*Mr. Hill to Baron de Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, September 25, 1899.

We are awaiting expected additional information important to an understanding of the matter before communicating detailed particulars.

DAVID J. HILL.

*Mr. Hill to Baron de Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 26, 1899.*

In absence of Governor Foster, the private secretary to the governor telegraphs me that the next regular term of the grand jury in Madison Parish is in January, but that it is the intention of the parish authorities to call a special term before then, of the date of which information is promised as soon as the judge can be reached.

DAVID J. HILL.

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*Baron Fava to Mr. Hill.*

[Telegram.—Translation.]

LENOX, MASS., *September 29, 1899.*

Please kindly wire if it is from your special agent that you are awaiting expected additional information mentioned in your telegram of 25th instant. Thanks.

FAVA.

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*Mr. Hill to Baron de Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 30, 1899.*

Your inference is correct. Both reports of Marquis Romano and Governor Foster are lacking in fullness on points which the Department feels it should ascertain before further discussion, and to that end is about to make independent examination by a trustworthy agent whose instructions are now being prepared.

DAVID J. HILL.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, October 9, 1899.*

MR. SECRETARY OF STATE: In your kind note of September 29 you were pleased to confirm the notice previously given me that, according to a communication addressed to you by the private secretary of the governor of Louisiana, the time for the next meeting of the grand jury of Madison Parish is in January, but that it is the intention of the authorities of that parish to call a special meeting before that time, the date of which will be made known as soon as the judge can fix it.

I have the honor to thank you for this courteous information, which



I hastened to communicate to my Government, while awaiting the further information on the subject, which, I doubt not, you will be pleased to send me at the proper time.

Accept, etc.,

FAVA.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, October 9, 1899.*

MR. SECRETARY OF STATE: In confirming, in your kind note of the 5th instant, your preceding communications relative to sending a special Federal agent to Louisiana, you were pleased to inform me that it was decided to send such agent in order to ascertain, through a reliable person, the facts connected with the lynching of the Italian subjects at Tallulah, and, also, because the relations between Mr. Romano and Governor Foster were, in many respects, unsatisfactory.

Thanking you for your courteous communication, which I did not fail to transmit to my Government, I am confident that the said confidential agent has already succeeded in establishing such friendly relations with the Louisiana authorities as to expedite their action in the attainment of the ends of justice by means of the arrest and prosecution of the lynchers.

This is, I need not repeat it, the chief and most just wish of the King's Government. \* \* \*

Accept, etc.,

FAVA.

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*Mr. Draper to Mr. Hay.*

No. 538.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, December 7, 1899.*

SIR: I have the honor to report that yesterday morning I received a note from the Marquis Visconti Venosta, minister for foreign affairs, thanking me for the information which I had communicated to him a day or two previously, in effect that the President was greatly interested to see that justice should be done in the Tallulah lynching case, and would probably recommend to Congress such legislation as would tend to prevent the repetition of such similar outrages in the future. In the afternoon I saw the minister for foreign affairs personally and showed him a printed abstract of the President's message on this point. He had already received by telegraph from Baron Fava a fuller summary of this part of the message than was printed in the Italian papers, and he expressed once more his gratification at the President's attitude, and hoped sincerely that his recommendation would be embodied in law.

I am, etc.,

WILLIAM F. DRAPER.

## JAPAN.

### BRINGING INTO OPERATION OF JAPANESE TREATIES.

*Mr. Herod to Mr. Hay.*

No. 269.]

UNITED STATES LEGATION,  
*Tokyo, Japan, March 23, 1899.*

SIR: I have the honor to call the Department's attention to Article XXIV of the treaty of commerce and navigation between France and Japan signed at Paris August 4, 1896, the first sentence in the first paragraph of which reads as follows:

*Le présent Traité ne produira ses effets que trois ans au moins après la signature.*

It will thus be seen that the French treaty can not come into operation prior to August 4 of this year, eighteen days after the date (July 17) fixed for the operation of the American treaty in common with that agreed upon by the other powers which have in recent years concluded treaties with Japan. In consequence, citizens of France will continue, under the old and now existing treaty of October 9, 1858, to enjoy the privileges of consular jurisdiction up to August 4 and, after July 17 and up to August 4, when their new treaty comes into force, will secure, under the most-favored-nation clause in the old treaty, all rights of residence, commerce, and navigation guaranteed to citizens and subjects of other powers under the provisions of their treaties, whereby consular jurisdiction is abolished. In other words, French citizens will from July 17 to August 4 enjoy all the rights of other foreigners in matters relating to navigation and commerce, and, in addition, extraterritoriality and freedom from taxation by Japan.

In view of the concise nature of Article XVIII of the American treaty of November, 1894, which provides that on July 17 next consular "jurisdiction shall absolutely cease and determine," and the fact that our most-favored-nation clause relates only to matters of navigation and commerce, I realize that a claim for the continuance of consular jurisdiction up to August 4 could not be maintained. On the other hand, Article XIV referred to does guarantee to citizens of the United States most-favored-nation treatment in all that concerns commerce and navigation, and if French citizens are up to August 4 to be free from taxes of all kinds levied by the Japanese Government, I am of the opinion that American citizens should enjoy equal "privileges, favors, and immunities."

If my opinion coincides with that of the Department, I have the honor to request instructions authorizing me to claim at the proper time all privileges of trade and navigation that will be enjoyed by French citizens after July 17 and up to August 4, 1899.

That the date for the operation of the French treaty differs from that fixed upon in Japan's other engagements is due to the carelessness of the Japanese negotiator at Paris. Since the ratification of

the treaty Japan has tried ineffectually to have the date changed to July 17.

I have, etc.,

JOSEPH R. HEROD.

*Mr. Hay to Mr. Herod.*

No. 223.]

DEPARTMENT OF STATE,  
*Washington, April 25, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 269, of the 23d ultimo, calling attention to the fact that by virtue of the treaty of commerce and navigation between France and Japan, signed August 4, 1896, as well as of their treaty of October 9, 1858, French citizens will from July 17 to August 4 next enjoy all the rights of other foreigners in Japan in matters relating to navigation and commerce and, in addition, extraterritoriality and freedom from taxation by Japan. You also point out that Article XIV of our treaty with Japan of November 22, 1894, guarantees to Americans most-favored-nation treatment in all that concerns commerce and navigation, and you express the opinion that, if French citizens are up to August 4, to be free from taxes of all kinds levied by the Japanese Government, American citizens should enjoy equal privileges, favors, and immunities.

In reply I have to inform you that the Department concurs in your view of the matter.

The third paragraph of Article II of our treaty is even more comprehensive than Article XIV in granting to American citizens most-favored-nation treatment.

You will bring the matter to the attention of the Japanese Government and claim for American citizens all privileges of trade and navigation that will be enjoyed by French citizens after July 17 and up to August 4, 1899.

I am, etc.,

JOHN HAY.

*Mr. Buck to Mr. Hay.*

No. 310.]

UNITED STATES LEGATION,  
*Tokyo, Japan, June 17, 1899.*

SIR: I have the honor to inclose herewith translation of an Imperial ordinance, dated the 14th instant, bringing into operation the new treaties between Japan and other powers.

It will be observed that the French and Austro-Hungarian do not come into operation until August 4 next, while all the others take effect on July 17.

I have, etc.,

A. E. BUCK.

[Inclosure.]

We hereby sanction the enforcement of the conventions of commerce and navigation promulgated on August 27, 1894, and other conventions, and promulgate the same.

His Imperial Majesty's sign and seal.

MARQUIS YAMAGATA ARITOMO,  
*Premier.*  
VISCOUNT AOKI TINZO,  
*Minister for Foreign Affairs.*

JUNE 14, 1899.

## IMPERIAL ORDINANCE NO. 251.

The convention of commerce and navigation promulgated on August 27, 1894, the convention of commerce and navigation promulgated on August 16, 1895, the convention of commerce and navigation promulgated on September 10, 1895, the convention of commerce and navigation promulgated on May 16, 1896, the convention of commerce and navigation promulgated on November 19, 1896, the convention of commerce and navigation promulgated December 28, 1896, the convention of commerce and navigation promulgated on May 22, 1897, the convention of commerce and navigation and the convention of amity, residence, and commerce promulgated on September 15, 1897, and the convention of amity and commerce promulgated on September 16, 1897, shall be enforced on and after July 17, 1899. The convention of commerce and navigation promulgated on March 30, 1898, and the convention of commerce and navigation promulgated on September 9, 1893, shall be enforced on and after August 4, 1899.

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*Mr. Buck to Mr. Hay.*

No. 323.]

UNITED STATES LEGATION,  
Tokyo, Japan, July 7, 1899.

SIR: I have the honor to inclose herewith newspaper clippings from the local papers, giving translations of several rescripts and instructions issued by the Emperor and the ministers of state respecting the operation of the new treaties, together with the comments of the vernacular press in relation thereto.

I have, etc.,

A. E. BUCK.

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[Inclosure 1.]

## IMPERIAL RESCRIPT ON THE NEW TREATIES.

Governing our realm by the abiding aid of our ancestors' achievements, which have enabled us to secure the prosperity of our people at home and to establish relations of close amity with the nations abroad, it is a source of heartfelt gratification to us that, in the sequel of exhaustive planning and repeated negotiations, an agreement has been come to with the powers, and the revision of the treaties, our long-cherished aim, is to-day on the eve of becoming an accomplished fact; a result which, while it adds materially to the responsibilities of our Empire, will greatly strengthen the basis of our friendship with foreign countries.

It is our earnest wish that our subjects, whose devoted loyalty in the discharge of their duties is conspicuous, should enter earnestly into our sentiments in this matter and, in compliance with the great policy of opening the country, should all unite with one heart to associate cordially with the peoples from afar, thus maintaining the character of the nation and enhancing the prestige of the Empire.

In view of the responsibilities that devolve upon us in giving effect to the new treaties, it is our will that our ministers of state, acting on our behalf, should instruct our officials of all classes to observe the utmost circumspection in the management of affairs, to the end that subjects and strangers alike may enjoy equal privileges and advantages and that, every source of dissatisfaction being avoided, relations of peace and amity with all nations may be strengthened and consolidated in perpetuity.

[Imperial sign manual.]

[Signatures of all the cabinet ministers.]

JUNE 30, 1899.

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[Inclosure 2.]

## CABINET NOTIFICATION NO. 1.

The work of revising the treaties has caused deep solicitude to His August Majesty since the centralization of the Government, and has long been an object of earnest desire to the people. More than twenty years have elapsed since the

question was opened by the dispatch of a special embassy to the West in 1871. Throughout the whole of that interval, numerous negotiations were conducted with foreign countries and numerous plans discussed, until finally, in 1884, Great Britain took the lead in concluding a revised treaty, and the other powers all followed in succession, so that now the operation of the new treaties is about to take place on the 17th of July and the 4th of August.

The revision of the treaties in the sense of placing on a footing of equality the intercourse of this country with foreign States, was the basis of the great liberal policy adopted at the time of the restoration, and that such a course conduces to enhance the prestige of the Empire and to promote the prosperity of the people, is a proposition not requiring demonstration. But if there should be anything defective in the methods adopted for giving effect to the treaties, not merely will the object of revision be sacrificed, but also the country's relations with friendly powers will be impaired and its prestige may be lowered. It is of course beyond question that any rights and privileges accruing to us as a result of treaty revision should be duly asserted. But there devolves upon the Government of this Empire the responsibility, and upon the people of this realm, the duty of protecting the rights and privileges of foreigners, and of sparing no effort that they may one and all be enabled to reside in the country confidently and contentedly. It behooves all officials to clearly apprehend the august intentions, and to pay profound attention to these points.

MARQUIS YAMAGATA,  
*Minister President of State.*

JULY 1, 1899.

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[Inclosure 3.]

GENERAL INSTRUCTIONS NO. 10 OF THE MINISTER OF STATE FOR EDUCATION  
TO LOCAL GOVERNORS.

Since my assumption of office the condition of the schools has caused me much solicitude, and on the occasion of the assembling of the government of prefectures and cities last April, I urged them to give serious consideration to the question of correcting the conduct of students and making the school regulations more stringent. The time for the operation of the revised treaties is now only a few days distant, and His Majesty has graciously issued an imperial edict on the subject. Doubtless the number of foreigners visiting the interior of the country will greatly increase, and if, at such a time, students be left without proper control, and suffered to neglect the dictates of propriety by cherishing sentiments of petty arrogance, and behaving in a violent, outrageous, or vulgar manner, not only will the educational system be brought into discredit, but also the prestige of the country will be impaired, and its reputation may even be destroyed. It is desired, therefore, that, in respectful accord with the august will, the directors of schools and the teachers should exert themselves to the utmost to effect reforms, and to discharge their functions with such earnestness that educational methods may be freed from all errors.

COUNT KABAYAMA,  
*Minister of State for Education.*

JULY 1, 1899.

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[Inclosure 4.]

SPECIAL INSTRUCTION NO. 11 OF THE MINISTER OF STATE FOR EDUCATION TO  
GOVERNMENT SCHOOLS.

The schools under the direct control of the Government serve as models to all the public and private educational institutions throughout the country. It is, therefore, my earnest desire that the behavior of the students at such schools should be regulated with notably strict regard to the canons of propriety, so that they may show themselves worthy of the station they occupy. The date of the operation of the revised treaties is now imminent, and His Imperial Majesty has issued a gracious rescript. It may be expected that the coming and going of foreigners in the interior of the country will henceforth grow more frequent, and if at such a time students be left without proper control and suffered to neglect the dictates of propriety by cherishing sentiments of petty arrogance, and behaving in

a violent, outrageous, or vulgar manner, not only will the educational systems be brought into discredit, but also the prestige of the country will be impaired, and its reputation may even be destroyed. For that reason I have addressed an instruction to the local governors urging them to guard against any defects in educational methods, and I am now constrained to appeal to the Government schools, which serve for models. I trust that those upon whom the functions of direction and teaching devolve, paying respectful attention to the august intention, will discharge their duties carefully toward the students, and, by securing the latter's strict adherence to rules, will contrive that they shall serve as a worthy example to the schools throughout the country.

COUNT KABAYAMA,  
*Minister of State for Education.*

JULY 1, 1899.

[Inclosure 5.]

[The Japan Daily Mail, Yokohama, July 3, 1899.]

IMPERIAL RESCRIPT ON TREATY REVISION.

The rescript which His Majesty, the Emperor, has issued in connection with the operation of the revised treaties will be read with satisfaction by foreigners, and can not fail to produce an excellent impression upon the public at large. The Emperor uses language of very exceptional force and frankness. It is an almost invariable rule that the expressions employed in a Japanese Imperial rescript are comparatively colorless and unmarked by any evidence of strong feeling. But in the message just addressed to his people, the Emperor of Japan tells them that treaty revision has for years been to him an abiding object of desire; declares that its consummation has entailed exhaustive planning and repeated negotiations, and speaks frankly of the heartfelt gratification he derives from the achievement of this long purpose. It is, perhaps, difficult for foreigners in general to appreciate the moving effect that such language must exercise upon the Japanese people, whose mental attitude toward their sovereign is still based on a profound belief in His Majesty's divine origin. We may be sure, however, that every Japanese will derive from this portion of the rescript a conviction that the nation's mood should be one of deep gratitude, and that the sovereign has invited his subjects to participate in his own satisfaction and to assist in completing it. Following upon these words comes a remarkable behest, which can not fail to derive added force from such a preface. The Emperor, addressing himself to his people, whose devoted loyalty in the discharge of their public duties is conspicuous, asks them to enter earnestly into his wishes, and all to unite with one heart in associating cordially with the people from afar, by which means, His Majesty says, the character of the nation will be upheld and the prestige of the empire enhanced. The significance that such expressions must convey to Japanese readers can scarcely be overestimated. They have evoked comments of a very strong character from the leading vernacular journals, and they will come with the force of an irresistible command to the whole nation.

By the average foreigner, however, the last paragraph of the rescript will probably be read with most interest. It is not easy to convey, by means of any concise translation, the full value of His Majesty's language. In speaking to his officials of the responsibilities that devolve on them in carrying out the treaties, the Emperor uses the words "Chin ga tame ni," which literally mean, "for my sake," or "on my behalf," and which, in this context, amount to a frank declaration that the responsibilities primarily belong to the sovereign himself, and that he invites his officials to discharge them on his account. As to the manner of their discharge, His Majesty lays down the broad principle that both natives and foreigners must enjoy equal benefits and advantages, so that, all sources of dissatisfaction being removed, amity and peace with the powers may be strengthened and perpetuated. Nothing could be less equivocal. The Emperor declares in the plainest terms that it is his policy and desire to abolish all distinctions between natives and foreigners, and that, by pursuing that course, his people will best consult his wishes, maintain the character of the nation, and promote its prestige. It is a very gracious and enlightened rescript, worthy of the epoch and of the sovereign under whose government Japan has risen to a position never before attained by an Oriental state.

[Inclosure 6.]

## MINISTERIAL INSTRUCTIONS.

We need not comment at any length on the instruction issued by the minister president by way of corollary to the imperial rescript of the 30th ultimo. The gist of the document is contained in the sentence that, while duly asserting the rights which the Japanese themselves acquired under the revised treaties, the responsibility devolves upon the Government and the duty upon the people of safeguarding the rights of aliens so that they may one and all be able to reside confidently and contentedly in the country. That is all that foreigners ask, and we can safely say that if the attainment of these most desirable objects depends upon the good will and the exertions of the Empire's leading statesmen, foreigners may rest easy.

Upon Count Kabayama's instruction wider interest will center. Has the educational department really recognized the necessity of introducing stricter discipline into the schools and inculcating a different spirit into the students' attitude toward foreigners? It would appear that such is the case, and the officials of the department are to be congratulated on the fact. The subject of rudeness to foreigners has often been discussed in these columns. We are firmly persuaded that it has its origin in the schools. Owing to a false construction placed by a professor of the Imperial University on the imperial rescript relating to education, a spirit of more or less hostility to foreign religious creeds and their disciples has been inculcated in the schools, and, as a matter of course, that spirit is manifested in the demeanor of students toward foreigners. The evil is reflected in other directions also, but its source is the schools, and to correct it nothing is required except a slight change in the instruction given there. School-teachers will now have before them this new imperial rescript declaring that cordial intercourse with foreigners is not only desired by His Majesty, but will also conduce to the country's reputation; and this instruction from the minister of education, telling them that anything like truculent or rude behavior toward foreigners will impair the nation's prestige and injure its fair fame. We may reasonably hope that these wholesome rules of conduct will replace the morbid conception of patriotism hitherto entertained by misguided students, and that the youth of the nation will be taught to regard civilized courtesy as one of the most conclusive evidences of national worthiness.

[Inclosure 7.]

[The Japan Daily Mail, Yokohama, July 4, 1899.]

## THE VERNACULAR PRESS ON THE IMPERIAL RESCRIPT.

The leading vernacular newspapers refer in terms of strong satisfaction to the imperial rescript with reference to treaty revision and are equally outspoken in their approval of the correlated instructions of the minister president and of the minister of state for education. The Jiji Shimpō predicts that the whole nation will welcome the rescript and respond with alacrity to His Majesty's behest. Passing on to the prime minister's instruction, our contemporary seems to be specially pleased by the phrase that, while duly asserting the rights Japan has acquired, the responsibility devolves upon the Government, and the duty upon the people, of safeguarding the rights of foreigners also, and enabling them to live confidently and contentedly in Japan. That reciprocity of obligation can not be too strongly inculcated. It is of the instruction issued by the minister of state for education, however, that the Jiji speaks with the strongest approval. Our contemporary declares that the tendency shown by the student class to behave rudely toward foreigners is the outcome of a faulty educational system, and that the defect of the system is primarily due to the mistaken policy which school-teachers have imbibed. The Jiji has repeatedly called attention to this lamentable state of affairs, but no visible effect has been produced by its writing. It now trusts that the desired reform will result from the imperial rescript and the instructions based upon it. Otherwise these wisely conceived messages will prove mere empty forms without any practical value.

The Nichi Nichi draws particular attention to the Emperor's injunction that all must unite in associating cordially with foreigners, since by that means the character of the nation will be preserved and its prestige enhanced. In olden times the Chinese used to call Japan a country of gentlemen, and foreigners were wont

to applaud the courteous manners of her people. But since the war of 1894-95 a spirit of arrogance has prevailed. Many foreign writers have descanted upon it. They do not find any fault with Japanese institutions, but they condemn the want of discipline in the schools and the rude behavior of the students, and they record instances of stones thrown or scurrilous epithets addressed to strangers. The result is that a nation which aims at taking rank with Occidental peoples is classed with the Chinese and the Koreans. Such a state of affairs would call urgently for remedy, even though the era of mixed residence were not about to be inaugurated. The fundamental policy of the Meiji era may be briefly summed up. It aimed, first, at unifying the administrative power, establishing constitutional institutions, and duly organizing all the departments of state; secondly, at exchanging the unequal treaties concluded with foreign powers for treaties of equality. These great purposes have now been accomplished and the country bathes in the blessings of civilization. It would be most unhappy if the good work were marred by a continuance of the abuses to which the minister of education refers.

The Kokumin Shimbun, after warmly applauding the sentiments expressed in the rescript and the ministerial instructions, comments on the extraordinary hal-lucination which prompts some Japanese to think that patriotism consists in treating foreigners rudely. It is true that the phantasy has disappeared in great part, but remnants of it are still active. There are school instructors who teach their pupils that to regard aliens as enemies is to be loyal to one's own country. Some go so far as to allege, even in this era of constitutional liberty of conscience, that distinctions should be set up between alien and native forms of religion. A result of such doctrines is that among certain classes of people antiforeign rudeness comes to be regarded as a legitimate method of self-assertion, and instances occasionally occur of stones being thrown at foreigners or opprobrious language applied to them. The Sovereign's plain declaration that acts of such a nature tend to lower the character and impair the reputation of the nation can not be too earnestly taken to heart by every unit of the people. Nor is it toward foreigners alone that the Japanese should be circumspect and polite. They should learn to treat each other also in a more considerate and courteous manner, and to eschew the unceremonious and ill-mannered conduct too often witnessed in railway trains and elsewhere. This revision of the treaties is one great forward step—an event which makes the era memorable. Every unit of the nation is concerned to see that the fruits of the change are duly gathered.

If the result of treaty revision, says the Shogyo Shimpō, is to make the people lose caste in the eyes of foreigners, so that the latter learn to despise them, it would have been better to have had no revision at all. Unless mutually kindly relations can be established with the foreign residents it will be impossible for them to live here, and they will conclude that treaties on an equal footing ought never to have been conceded to the Japanese. Thus the end for which Japan has worked so diligently will be forfeited.

The Jimmin, after premising that the position Japan has happily won among the nations is due to the Emperor's wisdom and virtues, and after repeating the fact that treaty revision has imposed new responsibilities upon the country, goes on to note that Japan is the first oriental power which has obtained admittance to the comity of Western nations on equal terms, and that it behooves her to set a worthy example to the other peoples of the East in her manner of enjoying her novel privilege, since the result may greatly influence the future progress of civilization. The reputation of the nation and the prestige of the empire depend upon the uses to which the country's newly acquired rights are put.

We should add that the Jiji Shimpō expresses a confident hope that, in the face of the Emperor's rescript, the educational department will finally abandon the illiberal and discreditable antiforeign legislation which it recently asked the high educational council to indorse.

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[Inclosure 8.]

#### WAR MINISTER'S INSTRUCTION CONCERNING THE REVISED TREATIES.

Under date of July 3, Gen. Viscount Katsura, minister of war, issued, according to the Japan Times, the following instruction concerning the operation of revised treaties:

"Since the day of His Majesty's ascension to the throne his august mind has



been in constant anxiety over the grave task of remodeling, on one hand, the laws and institutions of the realm, and on the other of revising treaties, that this nation may come to enjoy the status of equality vis-a-vis other countries. It was in the 4th year of Meiji (1871) that the Emperor for the first time commanded the ministers of state to attend to the affair of treaty revision. From that time onward repeated negotiations had been entered into on the question with different powers, while every loyal subject of His Majesty has kept on praying most earnestly for a successful consummation that the noble wish may be satisfied. At last the powers having agreed one after another to comply with the demand of the country, the work of the revision of treaties was satisfactorily completed, and the date of the operation of the new treaties leaves only a few days. In other words, the system of consular jurisdiction shall be abolished, while the customs tariff schedule has been amended in a way favorable to the national treasury; in short, the nation has been enabled to stand on equal footing with the civilized powers of the West, and to efficiently assert its prestige. All these are entirely attributable to the great virtues of the Emperor, and His Majesty's loyal subjects, in enjoying this boon, must ever keep before their eyes the wish of the Emperor and must exercise utmost circumspection, so that nothing amiss may happen to mar the reaping in full all the benefit arising from the new system. This remark especially applies to the soldiers, who are the bulwark of the imperial court and pillars of state.

"The successful revision of treaties has placed the country on a footing equal with Western powers, but it must not be forgotten that at the same time grave responsibilities thereby devolve upon it. On the morrow of the operation of revised treaties foreigners will come and go as they like, will freely fix their abodes or pursue business in the interior, and in consequence the people will have far greater occasions than before of coming into contact with foreigners. Now, history, both Japanese and foreign, shows that international troubles have had their origin very frequently in the daily intercourse between the people of a land and aliens, consequently the people of this Empire, now that the system of mixed residence will be inaugurated, must act with discretion and magnanimity toward foreign neighbors, so that the reality of being a civilized power may be manifested in the eyes of foreign nations, and that any accident involving trouble with foreign countries may be efficiently guarded against. The reputation of our soldiers as sincere and loyal subjects of His Majesty, faithful in the discharge of the public duties, and, as the flower of the nation, imbued with the spirit of manly valor, is acknowledged alike at home and abroad. Suppose the soldiers crowned with such renown and praise be betrayed into committing indiscreet acts toward foreigners. The consequence will not only result in affecting the dignity of the troops, but may even invite ignominy upon the nation and involve the imperial court in difficulty. Bearing all these points in mind the troops must strictly be on their guard against all indiscreet actions.

"Troops in general are under discipline, and that ours are strictly so is a point I fully acknowledge. But it may not be amiss to issue a warning on the present occasion, for at the outset of the operation of the revised treaties noncommissioned officers and privates, carried by the ardor of their youthful spirit, and unable to keep it under control, may be betrayed into engendering troubles with foreigners, a contingency which must be strictly warned against, it affecting to no small extent the reputation of our soldiers. In view of this, commanders of troops and others who are officially responsible for maintaining military discipline must exhort troops under them to avoid all indiscreet actions, and must order them at this juncture to conform to military discipline with greater exactness than ever and to keep their ardor under judicious control, to the end that they may not be betrayed into behaving themselves in a vulgar and rude manner toward foreigners, that they may be made to enhance to greater prominence the reputation already enjoyed by them, and may faithfully respond to the august wish of His Majesty.

"All that has been stated above being duties naturally attaching to soldiers may not require any special explanation from me. The only reason why I have decided specially to call your attention to this matter is because the operation of the revised treaties demands utmost circumspection from all quarters. I hope that you will appreciate my solicitude and will endeavor to strictly obey the ideas set forth in the imperial rescript."

VISCOUNT KATSURA, *Minister of War.*

JULY 1, 32D YEAR OF MEIJI (1899).

[Inclosure 9.]

## THE COMMUNICATIONS MINISTER AND THE OPERATION OF REVISED TREATIES.

Under date of the 5th instant, Viscount Yoshikawa, minister of communications, has issued the following instruction:

“The consummation of the memorable work of the revision of treaties, taking its origin in the grand policy of progress and enlightenment ushered in by the restoration, is a realization which has been earnestly aspired after by the nation. The date assigned for the operation of the new treaties drawing near, His Majesty the Emperor has solemnly promulgated an imperial rescript on the subject. I indeed think that the number of foreigners visiting the interior will, after the advent of the new system, continue to increase. Now, the department of communications forming the organ of national and private communication and intercourse, and being in consequence placed in a position most closely in touch with the interest of the general public, its officers and officials are naturally expected to discharge their duties with dispatch and punctuality and to treat their clients with courtesy and patience. Such is the general principle by which all the authorities and employees of the department should be guided in their conduct toward the public, and in so doing it is needless to say that they should not allow themselves to be swayed by spirit or racial or national prejudice. The officials of the department should keep the above point ever in view, that they may satisfactorily fulfill their official trust. Especially in dealing with foreigners, whose languages and customs are different to ours, and with whom misunderstandings may arise, will it be important to exercise extreme circumspection in all affairs, from explaining to their satisfaction points in the treaties and laws down to observing little ways of obliging and exchanging courtesies with them, so that the smooth operation of the new system may, in conformity with the wish of the Emperor, be consummated.”

[Inclosure 10.]

## THE NOSHOMUSHO AND THE OPERATION OF THE REVISED TREATIES.

In view of the approaching operation of the revised treaties, the departments of education, of war, and of communications issued timely instructions, as already reproduced in these columns. No such special instructions have been issued by the department of agriculture and commerce, but a speech which Mr. Fujita, vice-minister of the department, recently made before the meeting of prefectural governors, would go far toward making up for this absence. The following points may be cited from the vice-minister's speech: (1) Agriculture.—Japan, the vice-minister is reported to have stated, is at liberty to enact laws prohibiting or restraining foreigners engaging in agriculture, there being no clause in the treaties investing them with the right. Mr. Fujita, however, thinks that under the present circumstances an illiberal step is out of place. Hokkaido is under the jurisdiction of home office, but, so far as the Noshomusho is concerned, he thought the island might, without inconvenience, be opened to foreigners' agricultural undertakings. (2) Fishery.—He was of opinion that no restriction whatever is necessary to foreigners undertaking the industry at present. (3) Forestry.—Transaction of forest produce and the lease of forests and plains may be granted to foreigners to the full extent permitted by the treaties and laws now in force. (4) No special treatment of foreigners is necessary in their practicing veterinary art and horseshoeing, there being a provision granting such license to those who graduated foreign schools on these special professions and trades. (5) The game law will be applied in its full force to foreigners, excepting Chinese, who, according to article 16 of the law, will not be allowed to engage in shooting or hunting beyond the treaty limits. (6) Foreigners are entitled to become shareholders of any company other than those in which the holding of shares by foreigners is prohibited by its by-law. The right of deciding the admission, or otherwise, of foreigners as shareholders of a company rests with the shareholders themselves, and no special provision shall be made for foreigners by the Government; but the Government is authorized, if necessary, to deny to foreigners eligibility to the board of directors. No company under the jurisdiction of the agricultural and commercial department, however, calls for such a restriction. (7) The Government has under consideration the question of eligibility of foreigners to the membership of a chamber of commerce or their right of nominating members, but the opinion of the department is in favor of extending the privilege to foreigners. (8) The provision in the exchange law

reserving from foreigners the right of becoming brokers will not be altered, and in the case of an exchange organized on membership basis the provision to the same effect will be left unmodified. (9) No exclusion of foreigners is considered necessary in the law relating to guilds of exporters of staple products, except in a locality where such a course is essential in consideration of the local circumstances. (10) As to the system of weight and measure, no special provision is thought necessary to foreigners, except the yard system, concerning which the authorities are making investigations with a view to providing a special control.

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*Mr. Buck to Mr. Hay.*

No. 325.]

UNITED STATES LEGATION,  
*Tokyo, Japan, July 11, 1899.*

SIR: I have the honor to inclose herewith copies of a notification issued by me and published this morning in several newspapers of the country.

In consideration of the rescript of His Majesty the Emperor and the several notifications of the cabinet ministers (copies of which accompany my dispatch No. 323, of the 7th instant) in respect to the duties of Japanese subjects in their intercourse with foreigners, showing the great desire of the Government that the people should treat foreigners with due kindness and consideration in the new relations they will sustain to them under the operation of the new treaties, I thought it proper to reciprocate in like spirit.

I have, etc.,

A. E. BUCK.

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[Inclosure.]

NOTIFICATION TO UNITED STATES CITIZENS IN JAPAN.

*TOKYO, Tuesday, July 11, 1899.*

In view of the coming into operation of the new treaty between the United States and Japan on the 17th day of the present month, it seems fitting and proper not only to announce to citizens of the United States in Japan that fact, but also to call their attention to the changed conditions and to the obligations that will rest upon them in their new relations to Japanese laws and regulations to which they will be amenable equally with Japanese subjects in all that relates to their individual rights and privileges.

On the 16th instant jurisdiction of United States consular courts in Japan will end, and "all the exceptional privileges, exemptions, and immunities now enjoyed by citizens of the United States as a part of or appurtenant to such jurisdiction" will "absolutely cease and determine and thereafter all such jurisdiction will be assumed and exercised by Japanese courts."

The rescript of His Imperial Majesty the Emperor, as also the several notifications by his excellency the minister president of state and their excellencies the heads of departments of the Government, already published, enjoining, as they do, upon all Japanese subjects their duties in respect to foreigners, have been read with much satisfaction by me, as they will be by all United States citizens, not only in Japan but in America as well. In like spirit attention is called to the duty which I trust will be the pleasure of all citizens of the United States under no circumstances to give any cause of complaint either to Government officials or other Japanese subjects. In their relations with people of this country they should at all times, by their demeanor and by their every act, show such sentiments of regard for those with whom they will necessarily be associated, and for all laws, regulations, and customs, as will demonstrate that reciprocal friendship reasonably expected of them in response to the kind, considerate, and just treatment enjoined on all Japanese subjects by His Imperial Majesty and by the high officials of the Government.

The United States was the first of all the powers to enter into a "Treaty of

peace, amity, and commerce" with Japan. From that time the bonds of friendship uniting the two countries have become stronger and stronger with passing years, and it is the duty of all citizens of the United States in this country to see to it that nothing on their part is done to cause reflection upon the people of their nationality.

Given under my hand and seal this 10th day of July, 1899.

ALFRED E. BUCK,  
*United States Minister.*

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*Mr. Buck to Mr. Hay.*

No. 326.]

UNITED STATES LEGATION,  
*Tokyo, Japan, July 12, 1899.*

SIR: Referring to my dispatch No. 325, of yesterday's date, inclosing copies of my notification to American citizens in Japan concerning their condition and duties under the new treaty, I have the honor to inclose herewith copies<sup>1</sup> of editorial comments upon the notification which appear this morning in the Japan Mail and the Japan Times.

The Times is published by Japanese and is one of the leading papers of Tokyo; while the Mail is the leading paper published by foreigners in this country. Its editor and proprietor is an Englishman.

I am informed that the Japanese papers generally are publishing the notice with very gratifying comments. The Government officials appear to be much pleased with my publication in reciprocation of the rescript of the Emperor and the notifications of the Japanese cabinet, and our own people warmly approve. No similar action has yet been taken by the representative of any other power in Japan.

I have, etc.,

A. E. BUCK.

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*Mr. Buck to Mr. Hay.*

No. 329.]

UNITED STATES LEGATION,  
*Tokyo, Japan, July 15, 1899.*

SIR: I have the honor to inform you that by rescript of the Emperor the following-named ports of Japan are to be opened to foreign commerce on the new treaties coming into operation.

The translation of the rescript is as follows:

IMPERIAL ORDINANCE NO. 342, JULY 12, 1899.

ARTICLE 1. Besides the open ports hitherto designated the following are to be also open ports:

Shimizu, Suruga province.  
Taketooyo, Owari province.  
Yokkaichi, Ise province.  
Shimonoseki, Nagato province.  
Moji, Buzen province.  
Hakata, Chikuzen province.  
Karatsu, Hizen province.  
Kuchinotsu, Hizen province.  
Misumi, Higo province.  
Izuhara, Tsushima province.  
Sasuna, Tsushima province.

Shishimi, Tsushima province.  
Nawa, Ryukyu province.  
Hamada, Iwami province.  
Sakai, Hoki province.  
Miyazu, Tango province.  
Tsuruga, Echizen province.  
Nanawo (South Bay), Noto province.  
Fushiki, Etchu province.  
Otaru, Shiribeshi province.  
Kushiro, Kushiro province.  
Muroran, Iburi province.

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<sup>1</sup> Not printed.

ART. 2. At the port of Muroran, mugi (barley, wheat, rye, oats, etc.), sulphur, coal, and other commodities designated by the minister for finance only can be exported.

ART. 3. If in any of the ports named in article 1 the total amount of imports and exports of commodities comes short of 50,000 yen the said port is to be closed.

The period for the closure mentioned in the foregoing paragraph will be publicly announced by the minister for finance three months before.

## APPENDED RULE.

This ordinance comes into force on and after the day of the operation of the law of customs duties.

I have, etc.,

A. E. BUCK.

**LANDING AT JAPANESE PORTS FOR PASTURE AND REST OF  
UNITED STATES ARMY HORSES BOUND FOR THE PHILIP-  
PINES.**

*Mr. Hay to Mr. Buck.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 25, 1899.*

If permission be necessary to land and pasture at Nagasaki or Yokohama United States Army horses in transit to Manila, request it.

HAY.

*Mr. Adee to Mr. Buck.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 2, 1899.*

Press request telegraph 25th. Very necessary to rest horses while vessels coal. Four shiploads will go via Nagasaki.

ADEE, *Acting.*

*Mr. Adee to Mr. Buck.*

No. 235.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1899.*

SIR: I confirm on the overleaf of my telegram<sup>1</sup> of the 2d instant in regard to securing the permission of the Japanese Government to unload horses and mules belonging to the United States Army at Nagasaki for rest.

I inclose herewith for your further information copy of a letter from the Acting Secretary of War on the subject.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

<sup>1</sup> Printed ante.

[Inclosure.]

*Acting Secretary of War to the Secretary of State.*

WAR DEPARTMENT,  
*Washington, July 29, 1899.*

SIR: Referring to previous correspondence concerning the request of this Department to land horses, etc., at Nagasaki, I beg to say in explanation that the Quartermaster's Department is about to send four shiploads of horses and mules from Seattle to Manila, and it is desired that on arrival at Nagasaki, where the ship is to coal, the horses be unloaded for rest.

As the quartermaster at Seattle wires the Department that the Japanese consul informs him that it will be necessary for our Government to secure such permission from the Japanese authorities, it is requested that the privilege to land at Nagasaki or other Japanese port, if desired, be secured, it being fully understood that the horses are to be unloaded merely for rest, and to be reembarked as soon as the vessel is coaled.

Very respectfully,

G. D. MEIKLEJOHN,  
*Acting Secretary of War.*

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*Mr. Buck to Mr. Hay.*

No. 339.]

UNITED STATES LEGATION,  
*Tokyo, Japan, August 3, 1899.*

SIR: I have the honor to confirm your cipher telegram received the 28th ultimo, as follows:

WASHINGTON, *July 25.*

If permission is necessary to land and pasture at Nagasaki or at Yokohama United States army horses in transit to Manila, request it.

HAY.

In response to my request, I have received a note from the minister for foreign affairs to the effect that the Japanese Government have no objection to the said horses being landed and pastured, as desired.

I have, etc.,

A. E. BUCK

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*Mr. Adee to Mr. Buck.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 10, 1899.*

Ask inclusion Kobe permission land horses; transports may coal there.

ADEE, *Acting.*

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*Mr. Buck to Mr. Adee.*

[Telegram.]

TOKYO, *August 16, 1899.*

Landing horses at Kobe allowed.

BUCK.

ASSISTANCE TO UNITED STATES TRANSPORT "MORGAN CITY,"  
IN JAPAN.

*Mr. Buck to Mr. Hay.*

No. 350.]

UNITED STATES LEGATION,  
*Tokyo, Japan, September 7, 1899.*

SIR: I have the honor to confirm my telegram of date the 2d instant, as follows:

SECRETARY STATE, *Washington:*

Commander transport *Morgan City* telegraphs struck rock Inland Sea; beached 90 miles Kobe; probably disabled; soldiers landed.

BUCK.

Soon after receiving the news from the commander, who desired me to cable it to Washington, I received a telegram from Capt. Onofre Befbeder, commanding the Argentine training ship *Presidente Sarmiento*, reading as follows:

UNITED STATES MINISTER, *Tokyo:*

I have the honor to communicate to your excellency that this morning on entering the northern passage with my ship I found the United States transport *Morgan City* aground on Innoshima. Immediately on seeing her I anchored and sent an officer to offer my services; but the captain answered that though the ship had a big hole in her bottom, caused by running on a rock an hour before, he needed no immediate assistance, and had already telegraphed to Nagasaki. The troops and crew were in no danger at all. Captain Argentine training ship *President Sarmiento*.

I have addressed a letter to Captain Befbeder expressing high appreciation of his kind offers and courtesy.

The next telegraphic intimations, received on the 3d, from Mr. Wittich, in command of the troops who were on the *Morgan City*, and from one of the quartermasters, were to the effect that they needed provisions, and that they desired "the Japanese Government to permit the purchase of food on credit." Accordingly, by my direction, Consul Lyon, at Kobe, sent supplies early the following morning, and supplies were also sent from Nagasaki, until I was informed by the commander that a sufficiency had been received. Also, the foreign office, at my request, wired to the governor of the locality, Hiroshima Prefecture, to endeavor to facilitate the extension of credit. It appears that both money and provisions were lost on board.

Soon after the accident the governor of Hiroshima sent police and medical attendants from the local branch of the Red Cross Society to render assistance, and, it appears, provided communications by steamer between Miura village, on the island of Innoshima, and Onomichi, near by, the nearest telegraphic and railway point on the mainland, and acted throughout with great kindness.

I am informed that on the 3d the Japanese cruiser *Yoshino*, especially sent from the naval station at Kure, visited the *Morgan City*, asked if she could render any possible assistance, and received the reply that none was needed. The navy department here also expressed to Lieutenant Key, who chanced to be there on other business, their anxiety and willingness to do anything further that might be desired. I shall not fail to acknowledge with thanks their gracious offers, as well as the services of the governor.

On the 4th Governor-General Otis telegraphed to me, requesting the facts about the *Morgan City*, and offering at once to send a transport to convey the troops to Manila. I communicated this offer to the com-

mander and recommended to him and to General Otis that they consult together by telegraph, which was done, I being convinced that arrangements concerning the troops could be best adjusted by an understanding between those officers.

General Otis, he informs me, sent on the 5th the transport *Ohio* to convey the troops to Manila from Nagasaki, for which place, I learn from the commander, the troops are embarking by a Japanese steamer to-day.

I have, etc.,

A. E. BUCK.

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*Mr. Hay to Mr. Buck.*

No. 257.]

DEPARTMENT OF STATE,  
*Washington, October 21, 1899.*

SIR: I have to acknowledge the receipt of your dispatch, No. 350, of the 7th ultimo, confirming your telegram of the 2d ultimo, reporting the beaching of the United States transport *Morgan City*, and giving further information on the subject.

You will express this Government's appreciation of the courteous aid tendered to the vessel and her crew and passengers in the several quarters mentioned in your dispatch.

I am, etc.,

JOHN HAY.

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**NEGOTIATIONS RELATIVE TO THE LAYING OF A CABLE  
BETWEEN THE UNITED STATES AND JAPAN.**

*Mr. Hay to Mr. Buck.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 7, 1899.*

Our present and prospective interest in the Philippine Islands and Guam, joined to the commercial benefits to be derived from a direct telegraphic union of the Japanese Empire and the United States, strongly point to the desirability of creating such communication under American auspices. If you can discreetly ascertain that the Japanese Government is well disposed toward a distinctive American cable, you may represent to the Japanese Government that it will be agreeable to the United States if the Pacific Cable Company of New York be authorized to establish cable communication between the United States and Japan.

HAY.

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*Mr. Buck to Mr. Hay.*

No. 353.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, September 18, 1899.*

SIR: I have the honor to append on the overleaf reading of your telegram,<sup>1</sup> dated the 7th instant, to the effect that it would be agreeable

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<sup>1</sup> Printed ante.



to the United States if the Pacific Cable Company of New York were authorized to establish cable communication between the United States and Japan, and directing me to ascertain the attitude of the Japanese Government toward a distinctively American cable.

I to-day had an interview with the minister for foreign affairs, who appears to be well disposed to the proposal embodied in the telegram herewith confirmed. He said that he would refer the matter to the minister for communication, and then to the full cabinet for their consideration. I will immediately communicate to you the results as soon as known.

I have, etc.,

A. E. BUCK.

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*Mr. Buck to Mr. Hay.*

No. 386.]

UNITED STATES LEGATION,  
Tokyo, December 11, 1899.

SIR: Referring to your telegraphic instruction of September 7 last, in respect to the desirability of establishing cable communication between the United States and Japan under American control, directing that, if I could discreetly ascertain that the Japanese Government was well disposed to a distinctively American cable, I might represent that it would be agreeable to the United States should the Pacific Cable Company of New York be authorized to establish such communication between the two countries, I have the honor to state that, on learning the favorable attitude of the Japanese Government from the minister of foreign affairs, upon his suggestion, I addressed a note to him upon the subject (copy inclosed), to which a reply has now been received (copy inclosed).

Before replying to my note, the minister, in a personal interview, informed me of the conclusion of the Government, which was that the cabinet had accepted and approved in principle the proposition submitted, which, as I have been unofficially informed, was prepared by the director-general of telegraphs, and by him, through the minister of communications, presented to the cabinet.

I have the honor to inclose herewith a copy of the proposition which has been furnished me.

I have, etc.,

A. E. BUCK.

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[Inclosure.]

*Mr. Buck to Viscount Aoki.*

LEGATION OF THE UNITED STATES,  
Tokyo, September 19, 1899.

SIR: I have the honor to inform your excellency that I am in receipt of telegraphic instructions from my Government concerning the desirability of creating direct telegraphic union of the Japanese Empire with the United States under American auspices, and that I am authorized to communicate to your excellency the fact that it will be agreeable to the United States if the Pacific Cable Company of New York be authorized to establish cable communications between the two countries.

In view of the interests involved, I entertain the hope that your excellency's Government may give consideration to the above suggestion, and that the Pacific Cable Company of New York may present such considerations in respect to

commercial benefits to the Empire to be derived from the establishment of their line of cable as will justify favorable action of the Imperial Government.

I avail myself, etc.,

A. E. BUCK.

[Inclosure 2—Translation.]

*Viscount Aoki to Mr. Buck.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, the 8th day, the 12th month,  
the 32 year of Meiji (December 8, 1899).*

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 19th September, in which, under telegraphic instructions from your Government, you called the attention of the Imperial Government to the desirability of creating direct telegraphic union between our two countries, and expressed the hope that the Pacific Cable Company of New York might be authorized to establish such communications.

I beg to say in reply that the Imperial Government fully recognizes the utility of establishing the proposed telegraphic cable, and they will be prepared, when the charter shall have been granted to the company by the United States Government and all the necessary preparations for the project shall have also been completed, to open negotiations with the said company and consider how far they may afford facilities to the enterprise.

I avail myself, etc.,

VISCOUNT AOKI SIUZO.

[Inclosure 3—Translation.]

CONDITIONS TO BE PROPOSED FOR THE LAYING AND WORKING OF A SUBMARINE TELEGRAPH CABLE BETWEEN THE UNITED STATES AND JAPAN.

1. The submarine telegraph cable to be laid from the coast of the United States of America to the coast of Japan shall be established in a proper and efficient working order within five years from and after the date of the concession granted the Pacific Cable Company of New York by the Japanese Government. If the company shall fail to construct the said cable within the said period of five years the rights and privileges secured by the company to construct and operate the cable shall be null and void.

2. The Japanese Government shall, from and after the efficient completion of the said cable, grant the company an annual subsidy of 150,000 yen during a term of twenty years. Provided, however, that the said amount of 150,000 yen shall cover the charges for the Japanese Government telegrams to be forwarded over the said cable (exclusive of out payments).

3. The rate to be charged for private telegrams over the said cable owned and operated by the company shall not exceed 2 yen per word, and the rate per word for Japanese telegrams shall be half the amount collected from the general public for ordinary telegrams.

4. During the said term of twenty years from and after the completion of the said cable the Japanese Government may not authorize any undertakers to construct and lay a further submarine telegraph cable across the Pacific between the continents of America and Japan, with or without any intermediate station at any place or island in the Pacific.

The Japanese Government reserve, however, the right to grant a concession, if they should deem it important, to establish and work another submarine telegraph cable to any undertakers who may hereafter project to link Japan with any of the American continents under conditions which the Government may judge just and reasonable, provided, nevertheless, that in such case the Government shall first approach the company to undertake the establishment of such cable under the same conditions as have been tendered by the undertakers of the Government. If the company shall decline to accept the offer, the Government shall then be at liberty to grant the concessions to the undertakers who may be willing to promote such undertaking.

Other conditions to be mutually determined and agreed upon.

## KOREA.

### CONCESSION OF WHALING PRIVILEGES BY KOREA TO A RUSSIAN SUBJECT.

*Mr. Allen to Mr. Hay.*

No. 192.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 3, 1899.*

SIR: I have the honor to hand you inclosed a copy of a concession granted to a Russian subject by the Korean Government after several months' negotiations, and covering a right to take whales off the coast of Korea and use three ports for their purposes.

This concession was signed on the 29th ultimo.

I have, etc.,

HORACE N. ALLEN.

[Inclosure.]

This writing witness that the Government of Dai Han does hereby make to Count Henry Keyserling the concessions herein mentioned and that said Government and said Count Keyserling hereby make the following stipulations and agreements respecting the same:

#### ARTICLE 1.

There shall be set apart without delay for the use and occupation of Count Keyserling, as herein agreed upon, three places, viz:

1. In the province of Kionsang, along the coast near Cape Tikhmeneff (Oolsan Bay).
2. In the province of Kang Wan, at the place of Chang Shing-Takoo.
3. In the province of Ham Kiung, on the island of Ching-po.

Each of said places shall not exceed in extent 700 feet in length and 350 feet in width, and they shall be located on convenient spots near the seashore.

#### ARTICLE 2.

The location and limits of the above-mentioned three places shall without delay be made by the Government of Dai Han through a duly appointed representative and Count Keyserling acting jointly, and the limits of the same shall be clearly marked on the spots by stone or wooden posts, and a map and description of each place in Russian and Chinese shall be made in duplicate and signed by said representative and Count Keyserling. One duplicate to be delivered to and kept by the foreign office of the Dai Han Government and the other to be delivered to and kept by Count Keyserling, and the same shall, when so delivered, be considered and taken as part of his agreement.

#### ARTICLE 3.

If the places mentioned in article 1 belong wholly or in part to the Dai Han Government, then Count Keyserling may take possession of such part as belongs to the Government as soon as the maps and description have been signed and delivered as provided in article 2; but if any part of the same belongs to a Dai Han subject, such part shall not be taken or occupied until such subject is paid the full value of his property and rights of every kind, such payment to be made by Count

Keyserling. If Count Keyserling is unable to agree with such owners as to the value and price to be paid, such price and value shall be determined by the joint action of a representative of the Dai Han foreign office and Count Keyserling, and in no case shall property belonging to a Dai Han subject be taken or occupied until special permission so to do shall be issued under the seal of the Dai Han foreign office.

## ARTICLE 4.

When Count Keyserling shall obtain possession of said three places as mentioned and described above he shall have the right to use and occupy the same during the term of this agreement for the purpose of working up whales and their products, and for that purpose may erect and maintain thereon all necessary buildings, godowns, ware and store houses, and other houses and structures necessary for carrying on said business with the right to fix and operate necessary machinery and other appliances for such purpose.

## ARTICLE 5.

Count Keyserling will employ for the work under this agreement preferably Dai Han subjects; but in case of strikes or insufficiency of special knowledge or unsuccessful workmanship he can replace them by workmen of other nationalities, provided that, with the exception of Chinese, no foreigner shall be employed unless his government is in treaty relations with the Dai Han Government, and passports must be procured from the Dai Han Government for all such workmen, as well as for all foreign employees of Count Keyserling. If any of such foreign employees or workmen break the laws of Dai Han or the customs regulations or cause trouble with the natives or engage in smuggling either by export or import or break any of the regulations of this agreement, the Dai Han Government may cancel and withdraw such passport and will give notice thereof to the representative of the government to which the offender belongs, and such offender shall no longer have the right to reside outside the treaty ports; and Count Keyserling shall thereupon discharge from his employment the offender and use his best efforts to have such offender leave the country or go to an open port.

Count Keyserling further undertakes that he and his representatives will in good faith endeavor to preserve order among his foreign employees and workmen and to prevent them from breaking the laws of Dai Han or the customs regulations or causing trouble and to bring them to justice and punishment in case they do so.

## ARTICLE 6.

No part of the three places assigned to Count Keyserling by this agreement shall be used or occupied for any purpose except for those mentioned in this agreement; and all concessions herein made to Count Keyserling shall be strictly construed; and no concessions or rights are granted hereunder by the Dai Han Government unless expressly named, given, and provided for in this agreement. Neither Count Keyserling nor any foreign workmen or foreign employees of Count Keyserling shall engage in any business or occupation at said places except in the business embraced by this agreement; and in case such workman or employee does engage in any other business or occupation he shall be discharged by Count Keyserling and his passport canceled, and he shall not be permitted to remain outside of the treaty ports. Full jurisdiction shall be retained by the Dai Han Government over all its subjects employed by Count Keyserling, and no asylum shall be given by him or his foreign employees or workmen to such subjects.

## ARTICLE 7.

The Dai Han administration will render all proper assistance to Count Keyserling in his dealings with the local population and workmen.

## ARTICLE 8.

No work or operations shall be carried on in said places or in the ports in which they are situated which will create disease or be detrimental to public health.

As incident to the grant herein made of the places on which to work whales Count Keyserling may erect landing stages attached to and in front of each of said three places and extending into the water. Should it afterwards be found that the structure erected interferes with the navigation of the port or tends to fill up or injure the port the same shall forthwith be removed by Count Keyserling at

his expense, and if he fails to do so after notice of two months the Dai Han Government may remove the same.

#### ARTICLE 9.

It is expressly understood that nothing in this agreement, and no rights and concessions herein given or made, shall prevent the Dai Han Government from opening any port to foreign trade, and that in case any port is opened where any place selected and assigned to Count Keyserling is situated and the Dai Han Government desires to embrace such place within a foreign settlement, then such place shall be treated as Dai Han property and may be taken for the purpose of such foreign settlement after six months' notice to Count Keyserling, provided Count Keyserling shall be compensated for the same as follows:

1. He shall be repaid whatever he has paid for such place, or part thereof, to any Dai Han subject, as provided in article 3, but if he is given a new place, as hereinafter provided, such repayment shall not be made.

2. He shall also be paid the actual cash value of all his buildings and machinery on the place so taken, and the same shall belong to the Dai Han Government. In estimating such cash value, the value of any concession herein made, or damages for the stoppage of his business or any other incidental loss to Count Keyserling, shall not be taken into account.

Provided that the rental of such places, viz, at the rate of 150 yen per year, shall cease and not be paid by Count Keyserling after the place is taken for a foreign settlement; and provided further, that Count Keyserling shall be at liberty to remove all the buildings and machinery, or either of them, within a reasonable time, in which case he shall not be paid for the same; and provided further, that in case any place is taken for a foreign settlement under this article a new place, of the same size, instead shall be assigned to Count Keyserling, if he so desires, free of cost, outside the settlement. Such new place shall be selected as was the place taken, and all the provisions of this agreement shall apply to said new place that applied to the old one for which it is substituted, and Count Keyserling shall pay rent for the same as for the old place, viz, at the rate of 150 yen per year. In case Count Keyserling desires to remove his machinery from the old place to such new place, the Dai Han Government will pay him the cost of such removal.

#### ARTICLE 10.

The term of this agreement shall be twelve years, commencing from the date hereof, and at the end of such term Count Keyserling shall cease operations hereunder, and he shall, within a reasonable time, remove all machinery and appliances for working whales and surrender said places to the Dai Han Government. All buildings and structures shall become the property of the Dai Han Government without any cost, and the Dai Han Government shall take full possession of said places.

#### ARTICLE 11.

As yearly rental for said three places, Count Keyserling agrees to pay the Dai Han Government at Seoul 450 yen each year, in advance; the first of the said payments to be made to the Dai Han foreign office when the agreement is signed, and the others to the same office on the same day of each year thereafter during the continuance of this agreement. If Count Keyserling fails to make any of the said payments for a period of one year after they become due, as in this article stipulated, all rights granted him in this agreement shall be forfeited and become null and void, and the Dai Han Government may enter upon and take possession of and own, without cost, all said three places, and all the buildings, structures, machinery, and other property thereon; provided, that if Count Keyserling shall pay within six months thereafter all the amounts due or to become due as rental and interest on said premises up to the end of the twelve years' term, he shall be at liberty to remove his buildings and machinery, and if he fails to make such payments within said six months, then all said buildings and machinery shall be forfeited to and belong to the Dai Han Government. If any payment of rental is not made when it becomes due, it shall bear interest at the rate of 1½ per cent per month till paid.

#### ARTICLE 12.

If Count Keyserling or his representatives shall break any of the agreements herein made, or any of the things prohibited herein, he shall in addition to all treaty penalties indemnify and pay the Dai Han Government for all loss and damage sustained by it, and if he permits the same to be repeated or continued after notice by

the Dai Han Government, this agreement and all his rights hereunder may be forfeited by the Dai Han Government, in which case he shall forthwith remove all machinery and stores and other property from the places occupied by him, but the buildings and other structures erected by him shall be forfeited to the Dai Han Government, and it may take full possession of said places, buildings, and structures and have and own the same without cost.

## ARTICLE 13.

Count Keyserling may, with the consent and permission of the Dai Han foreign office, given in writing, transfer his rights to another reliable person or a reliable company. In case of his death before such transfer, his rights shall go over for the remainder of the term to his legitimate heirs and successors. But in case of any transfer by him to others, or by his death to his heirs and successors, such transferees and heirs and successors shall be subject to all the obligations and prohibitions, limitations and penalties of this agreement. Notice of any transfer shall be at once communicated to the Dai Han foreign office, and in case of death of Count Keyserling the names and interest of Count Keyserling's heirs and successors shall also be communicated to the said foreign office.

## ARTICLE 14.

In case any dispute or contention or question shall arise under the agreement, the same shall be settled by arbitration, one arbitrator to be selected by the Dai Han foreign office, the other by Count Keyserling, and if these arbitrators can not agree they shall select an umpire without delay, whose decision shall be final, and the Dai Han Government on the one side and Count Keyserling on the other agree to abide by and perform the award and decision of said arbitrators or umpire.

## ARTICLE 15.

It being necessary for the protection of the revenue that the customs department should depute an officer to reside permanently or occasionally at each of the stations granted by this concession, Count Keyserling undertakes to furnish suitable quarters at each station for the customs officer so deputed, and until such quarters can be built and prepared, Count Keyserling will place a suitable cabin on board any of his ships lying at a station at the disposal of said customs officer and will furnish him with a boat's crew whenever he has occasion to go afloat.

Count Keyserling undertakes, further, to pay to the customs at Yuensan a sum of \$100 a month to meet in part the cost of providing the customs officer required; provided, that when Count Keyserling is not working at any station no officer will be deputed to reside at such station and no contribution for him will be paid; and provided further, that Count Keyserling must always give ten days' previous notice to the custom-house at Yuensan of his intention to work at any station, so that the officer may be sent with or before Count Keyserling; but if the officer does not arrive at the place before the expiration of the said ten days, Count Keyserling may commence work in his absence at the expiration of said ten days.

Should Count Keyserling work whales at two or more stations at the same time, an officer must be deputed to each station and the fee of \$100 per month paid for each officer.

## ARTICLE 16.

During the term of this concession Count Keyserling may import duty free, in the vessels mentioned in article 18, below, machinery, materials—including salt and coals—and instruments necessary for carrying on the whaling business mentioned herein.

A detailed list of the quantities and values of all such articles, machinery, instruments, stores, materials, and other appliances for use in working whales landed at a station shall be kept by the customs officer on duty. This list will be checked from time to time with the articles, and if anything is found missing and unaccounted for, duty at the tariff rate as originally due will be collected on it.

## ARTICLE 17.

Provisions and stores for the workmen, which shall be sold to the workmen at the actual cost price, plus the expenses for procuring and keeping them, will be purchased by Count Keyserling in Dai Han, except when the prices are very high, in case of famine or a bad harvest, when he may import them from abroad; provided, that no provisions or stores shall be imported except for the actual use of

the workmen and employees, and shall not be sold to anyone else. Such provisions and stores brought into a station, if kept and consumed on board the vessels, shall not be liable to duty; but any provisions or stores landed for consumption on shore shall pay duty, and a list of all such shall be made out at the time of landing and handed to the customs officer on duty, who will check it, and, having certified it correct, will forward it to the Yuensan commissioner, to whom Count Keyserling or his agent will without delay pay the duty shown to be due.

## ARTICLE 18.

During the term of this concession Count Keyserling may import and export, either in his own vessels or on chartered ones sailing under the flag of Dai Han or of a government in treaty relations with the Dai Han, whales and products of the whale fishing, either raw or worked up, but nothing in this concession shall be construed as giving a license to take whales within Korean waters.

## ARTICLE 19.

1. All vessels which Count Keyserling employs in his whaling business in Korean waters must at the beginning of each season be reported at the Yuensan custom-house and tonnage dues paid upon them.

If it be convenient for any of the vessels employed to proceed to Yuensan herself before payment of tonnage dues, her papers may be examined by the customs officer at the station and his report of the register tonnage accepted as correct.

Subsequent payments of tonnage dues before the close of the season may similarly be made in the vessel's absence.

2. In lieu of all duties, import or export, on whales or their products the sum of 20 yen shall be paid by Count Keyserling as a tax on each whale, irrespective of size, brought by him into Korean waters to be worked up. On the last day of each month Count Keyserling, or his representative at the station, shall hand a statement of the number of whales brought into that station during the month to the customs officer there on duty, who, having verified the statement and certified it correct, will forward it to the commissioner of customs at Yuensan, to whom Count Keyserling or his agent will without delay pay the amount of tax due, calculated on this verified statement.

## ARTICLE 20.

The text of this agreement is drawn up in duplicate in Russian, Chinese, and English language, duplicates to be duly executed and signed, and one to be kept in the Dai Han foreign office and the other by Count Keyserling. In case of misunderstanding the English text shall be considered the ruling one.

March 29, third year of Kwang Mu.

YE EUNG IK,

*The Chief of the Diplomatic Bureau of Dai Han Foreign Office.*

COUNT HENRY KEYSERLING.

17 MARCH, 1899, SEOUL.  
29

## OPENING OF THE PORT OF PENG YANG.

*Mr. Sands to the Secretary of State.*

No. 201.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, August 10, 1899.*

SIR: I have the honor to report to you that the Korean Government has again refused to keep the promise made last March, that the port of Peng Yang should be opened on the 1st of May.

It is difficult to understand their motives.

In Mr. Allen's No. 185,<sup>1</sup> dated March 23, he informs the Department of this definite promise of the Government, which, I think, you will

<sup>1</sup> Not printed.

find contained in inclosure No. 4 of the above-mentioned dispatch. Surveyors were sent to mark out the foreign settlement and local officials appointed. The 1st of May passed, however, without a formal opening, and the surveyors and officials were recalled.

I spoke to the minister for foreign affairs, and was informed that the Government had decided not to open Peng Yang, giving as a reason that there was "much property in that city belonging to the imperial household." It seemed to me hardly a valid reason, and I declined to accept his refusal, and informed the foreign office that I considered the city open from the 1st of May, and had instructed Americans that they might live there as in any other port where no foreign settlement exists. Since then, in reply to all communications on the subject, I have referred them to my first note, declining to argue the question.

After much deliberation at the weekly diplomatic meetings, and after addressing many joint notes to the Korean Government, the other foreign representatives in Seoul decided to do as I did last May. In a dispatch they received a few days since a compromise was offered—a site for a foreign settlement to be outside the city and entirely away from the water, a place wholly undesirable and not in any way suited to the purposes of trade, which is the prime object in opening the city.

\*            \*            \*            \*            \*            \*            \*

I shall await your final decision in this matter, and in the meantime shall still decline to discuss the matter with the foreign office.

\*            \*            \*            \*            \*            \*            \*

I have, etc.,

WILLIAM FRANKLIN SANDS.

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*Mr. Adee to Mr. Sands.*

No. 136.]

DEPARTMENT OF STATE,  
*Washington, September 12, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 201, of the 10th ultimo, reporting that in spite of the promise given last March that the port of Peng Yang would be opened on the 1st of May of this year, the Korean Government has again refused to open the port, but offers as a compromise a site for a foreign settlement to be outside the city and entirely away from the water, a place which you say is wholly undesirable and not in any way suited to the purposes of trade, which is the prime object in opening the port.

In reply I have to say that the compromise offered is entirely unacceptable to this Government.

You will continue to urge fulfillment of the promise given in March to open the port of Peng Yang. The excuse advanced for not doing so, that there is "much property in that city belonging to the imperial household," appears to be inconclusive. The fact should have been known in March last, and such interests, if established, could readily have been respected in marking out the boundaries of the promised foreign settlement. Even at this late day it should not be difficult to take cognizance of the alleged fact, and modify the original



boundary accordingly without destroying its essential character as a station for foreign trade and residence accessible from the sea.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Allen to Mr. Hay.*

No. 213.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, November 17, 1899.*

SIR: Referring to Mr. Adee's dispatch No. 136, September 12, relative to the opening of the port of Peng Yang to foreign trade, I have the honor to inform you that the Korean Government has failed to carry out its written agreement to fulfill that undertaking, and, having exhausted all reasonable measures in attempting to bring this matter to a satisfactory conclusion, the foreign representatives, at a recent meeting, decided to wait upon the foreign minister in a body and once more attempt to come to some amicable and satisfactory agreement, failing in which we were to declare our intention of regarding the whole city of Peng Yang as open to foreign trade and residence, and to inform his excellency that we would protect our people in their right to enjoy these privileges in pursuance of the imperial decree opening the place to trade.

We waited upon the foreign minister on the 4th instant, but got absolutely no satisfaction whatever, even upon our announcement of the alternative to which we would be driven.

We therefore each addressed a note to the foreign minister in the same sense, citing the whole circumstances of the case and announcing our intention, in the absence of any suitable provision for a foreign settlement, of regarding the city of Peng Yang in the position as is Seoul, and of protecting our people in their right to reside and carry on trade at that place. I have the honor to hand you inclosed a copy of my note of the 16th instant to that effect.

I have, etc.,

HORACE N. ALLEN.

[Inclosure.]

*Mr. Allen to the Foreign Minister.*

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, November 16, 1899.*

YOUR EXCELLENCY: I have the honor to refer your excellency to the correspondence which has taken place between yourself and the foreign representatives at Seoul respecting the question of the opening of the city of Peng Yang, and to intimate to you the decision which myself and my colleagues have been reluctantly compelled to take in view of the failure of your excellency's Government to give effect to the promise contained in your predecessor's dispatch of the 29th of May, 1898.

Nearly eighteen months have elapsed since the Korean Government, in the above-mentioned dispatch, announced its intention of opening a trade mart in the city of Peng Yang. Nothing was done to fulfill this undertaking until the 15th of April last, when your excellency notified the foreign representatives of the selection of Sa Hou Chong as the site of the proposed trade mart. This place, which is some li (15 miles) distant from Peng Yang, was naturally rejected, and your excellency was reminded that this mart was to be established within the city. Notwithstanding this, you wrote two months later, on the 23d of June,

proposing to substitute a place called Yang Chi Ko, also lying some distance from the city, and consequently liable to all the objections of the previous selection.

It was not until the 20th of July last, considerably more than a year after the date of the original undertaking, that your excellency finally admitted the propriety of locating the mart within the city, but the admission was robbed of its value and virtually neutralized by your selecting a quarter of the city which was much too restricted in area, unprovided with water frontage, and otherwise entirely unsuited for the purposes of trade.

Anxious to meet the views of the Korean Government and to bring the question to a settlement, the foreign representatives, in their note of the 31st of July, submitted a counter proposal in the nature of a compromise, which, in its turn, was rejected by your excellency.

As a final effort, the foreign representatives, on the 8th of September last, suggested to your excellency that a member of the customs service should be dispatched to Peng Yang to select a suitable site.

Having received no acknowledgment of this communication, the foreign representatives waited upon your excellency at the foreign office on the 4th instant, and the Japanese minister, as doyen of the body, made various proposals with the view of arriving at an amicable solution of the question, all of which your excellency declined to entertain.

My colleagues and myself have exhausted all our efforts in endeavoring to induce the Korean Government to carry out their undertaking, and while still prepared to consider any reasonable proposals which you may offer, we can not acquiesce any longer in the denial by the Korean Government of the rights already granted to foreigners in Peng Yang.

The case seems to me to be analogous to that of Seoul, of which the British treaty, Article IV, section 1, says: "The city of Hanyang (Seoul) and the town of Yangwachin, or such other place in that neighborhood as may be deemed desirable, shall, from the day on which this treaty comes into operation, be opened to British commerce."

Yangwachin or other place was never selected, and while no foreign settlement was ever laid out in Seoul, foreigners have, by virtue of the above provision, been allowed to reside and do business anywhere within the city limits and within the 10-li radius thereof.

In absence of any satisfactory arrangement for a settlement at Peng Yang, I am therefore, in pursuance of the decree of your Government opening that place to trade, compelled to regard Peng Yang in the same status as is Seoul, and allow American citizens to reside and do business anywhere within the city and treaty limits, and I shall protect them in such rights.

I am warranted in this action by definite instructions from my Government. Replying to a dispatch relative to the distant site Sa Hou Chong, my Government states that "the compromise is entirely unacceptable to this Government." and I was instructed to "urge the fulfillment of the promise given in March last to open the port of Peng Yang. The excuse advanced for not doing so, that there is 'much property in that city belonging to the household' appears to be inconclusive. The fact should have been known in March last and such interests, if established, could easily have been respected by marking out the boundaries of the proposed settlement." A course which your excellency has so far declined to take.

I have, etc.,

HORACE N. ALLEN.

## TREATY BETWEEN KOREA AND CHINA.

*Mr. Allen to Mr. Hay.*

No. 215.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, December 12, 1899.*

SIR: I have the honor to hand you inclosed, a copy of a translation of the new treaty between Korea and China, which has been signed and now only awaits being exchanged.

\* \* \* \* \*

I have, etc.,

HORACE N. ALLEN.

[Inclosure No. 1.]

## TREATY BETWEEN KOREA AND CHINA.

His Majesty the Emperor of Korea and His Majesty the Emperor of China, being sincerely desirous of establishing permanent relations of harmony and friendship between their respective subjects, have resolved to conclude a treaty for that purpose, and have therefore named as their plenipotentiaries, that is to say:

His Majesty the Emperor of Korea, Pak Chei Sun, Korean minister of foreign affairs, minister of the council of state, etc., His Majesty's minister plenipotentiary;

His Majesty the Emperor of China, Hsi Shou Peng, an official of the second grade, director of the imperial stud, His Majesty's minister plenipotentiary;

Who, after having communicated to each other their respective full powers, found in due and good form, have agreed upon and concluded the following commercial treaty:

## ARTICLE I.

There shall be perpetual peace and friendship between the Empire of Korea and the Empire of China, and between their respective subjects, who shall enjoy equally in the respective countries of the high contracting parties full protection and the advantages of favorable treatment.

If other powers should deal unjustly or oppressively with either Government, the other, on being informed of the case, will exert their good offices to bring about an amicable arrangement, thus showing their friendly feelings.

## ARTICLE II.

After the conclusion of this treaty of amity and commerce, the high contracting powers may each appoint diplomatic representatives to reside at the court of the other, and may each appoint consular representatives at the ports of the other which are open to foreign commerce, at their own convenience.

These officials shall have relations with the corresponding local authorities of equal rank upon a basis of mutual equality.

The diplomatic and consular representatives of the two Governments shall enjoy mutually all the privileges, rights, and immunities, without discrimination, which are accorded to the same class of representatives from the most favored nation.

Consuls shall exercise their functions only on receipt of an exequatur from the Government to which they are accredited.

No restrictions or difficulties shall be imposed upon the movement of the members of the official establishments of either country or upon messengers carrying official dispatches.

Consular authorities shall be bona fide officials. No merchant shall be permitted to exercise the duties of the office, nor shall consular officers be allowed to engage in trade.

At ports to which no consular representatives have been appointed the consuls of the other powers may be invited to act, provided that no merchant shall be allowed to assume consular functions.

If the consular representatives of either country conduct their business in an improper manner, they shall be withdrawn on notice being given to the diplomatic representatives of the country concerned.

## ARTICLE III.

Merchants and merchant vessels of Korea visiting Chinese treaty ports for purpose of trade shall pay import and export duties and tonnage dues and all other charges according to the Chinese customs regulations and on the same terms as the similar duties levied on the subjects of the most favored nation.

Chinese merchants and merchant vessels visiting Korean treaty ports for purposes of trade shall pay import and export duties and tonnage dues and all other charges according to the Korean customs regulations and upon the same terms as the duties levied upon the subjects of the most favored nation.

The subjects of both powers shall be allowed to resort for purposes of trade to all the open ports in the dominion of the other.

Regulations for the conduct of trade and the customs tariff shall be those enjoyed by the most favored nation.

## ARTICLE IV.

Subjects of Korea who may proceed to the Chinese open ports may reside and rent premises or lease land and erect warehouses as they please within the limits of the settlements. They shall be at liberty to traffic in all kinds of native produce, in all manufactured goods, and in all articles that are not declared contraband.

Subjects of China who may proceed to the Korean open ports may reside and rent premises or lease land and erect warehouses as they please within the limits of the settlements. They shall be at liberty to traffic in all kinds of native produce, in all manufactured goods, and in all articles that are not declared contraband.

All questions affecting the renting of land, the building of houses, the laying out of cemeteries, the payment of rent and taxes, and other matters of a similar nature at the treaty ports of either country are to be determined in accordance with the settlement and municipal council regulations of the ports, which must not be infringed.

If there is, in addition to a general foreign settlement at treaty port in either country, a settlement under the separate control of a foreign power, questions affecting the renting of land and similar matters shall be governed by the regulations of the settlement, which must not be infringed.

3. Chinese subjects shall enjoy all benefits and advantages granted to foreigners with reference to the leasing or purchase of land or houses beyond the limits of the foreign settlements at the treaty ports of Korea. But all lands so occupied shall be subject to such conditions as to the observances of Korean local regulations and payment of land tax as the Korean authorities may see fit to impose.

Korean subjects shall enjoy all benefits and advantages granted to foreigners with reference to the leasing or purchase of land or houses beyond the limits of the foreign settlements at the treaty ports of China. But all lands so occupied shall be subject to such conditions as to the observance of Chinese local regulations and the payment of land tax as the Chinese authorities may see fit to impose.

4. The subject of neither country shall be permitted to rent land or houses or open warehouses beyond the limits of the area open to foreign trade at the treaty ports of the high contracting parties. The penalty for a breach of this stipulation shall be the confiscation of the land and a fine of twice their original value.

5. No coercion or intimidation in the acquisition or lease of land shall be permitted and the land so occupied shall remain an integral part of the state.

6. If merchandise is sent by the subjects of one of the high contracting parties from one treaty port in the other country to another treaty port in the same country it shall be subject to the same dues and duties, prohibitions and regulations as obtain in the case of the subjects of the most favored nation.

## ARTICLE V.

1. A Chinese subject who commits any offense in Korea shall be tried and punished by the Chinese consular authorities according to the laws of China.

A Korean subject who commits any offense in China shall be tried and punished by the Korean consular officials according to the laws of Korea.

A Chinese subject who commits any offense against the life or property of a Korean in China shall be tried and punished by the Chinese authorities according to the laws of China.

A Korean subject who commits any offense against the life or property of a Chinese in Korea shall be tried and punished by the Korean authorities according to the laws of Korea.

When controversies arise between the subjects of the two countries they shall be decided by the proper official of nationality of the defendant according to the laws of that country.

The properly authorized official of the plaintiff's nationality shall be permitted to attend the trial and watch the proceedings, and shall be treated with the courtesy due to his position. If he so desires, he shall have the right to call and examine witnesses, and if he is dissatisfied with the proceedings he shall be permitted to protest against them in detail.

2. If a subject of one of the high contracting parties who has committed an offense against the laws of his country takes refuge on the premises or on board a ship owned by a subject of the other the local officials, after having notified the consular authorities, shall send police to assist in having the offender arrested and brought to justice. The authorities of the nationality of the offender shall try the case. No protection or concealment of any such person shall be permitted.

3. If a subject of one of the high contracting parties who has committed an offense against the laws of his country takes refuge in the dominions of the other the authorities of the latter country, on receiving an application, shall discover and hand over such person to his country for trial. No concealment or protection of any such person shall be permitted.

4. When in the subject of either of the high contracting parties the laws and legal procedure of the other shall have been so far modified and reformed as to remove the present existing objections, the right of extra territorial jurisdictions shall be relinquished.

#### ARTICLE VI.

In China the export of rice and grain to foreign countries has always been prohibited. There is no prohibition of this kind in Korea, but it is agreed that whenever there is reason to apprehend a scarcity of food within the limits of the Empire a prohibition against the export of rice and grain may be enforced, and shall be binding upon Chinese subjects when it shall have been officially communicated by the Korean local authorities to the Chinese authorities concerned.

#### ARTICLE VII.

If the subjects of either of the high contracting parties in their commercial dealings with each other are guilty of fraud or make fictitious sales, or do not pay their debts, the authorities of both powers shall use stringent measures to arrest the offenders and obtain payment of the debts.

The Government of the high contracting powers shall not be responsible for debts of this nature.

#### ARTICLE VIII.

Chinese subjects shall have the right to travel under passports in the interior of Korea for purposes of pleasure or trade. They are, however, forbidden to reside or to open establishments for trade there. The penalties for a breach of this stipulation are the confiscation of the goods and a fine of twice their original value.

Korean subjects shall have the right to travel under passports in the interior of China for purposes of pleasure or trade, and shall receive most favored nation treatment in this respect.

#### ARTICLE IX.

The purchase of arms, munitions, and implements of war, as ordnance or cannon, shot and shell, firearms of all kinds, cartridges, sidearms, spears or pikes, saltpeter, gunpowder, gun cotton, dynamite, and other explosive substances is permitted only to the officials of the two contracting powers, and they may be imported by the subjects of either only under a written permit issued by the officials of the country into which they are imported.

If these articles are clandestinely imported or sold they shall be confiscated and the offending party fined twice their original value.

The import of opium into Korea is prohibited, and if either foreign or Chinese grown opium is imported by Chinese subjects it shall be confiscated and the offending party fined twice its original value.

The export of red ginseng from Korea has always been prohibited. If Chinese subjects clandestinely buy and export it without the special permission of the Korean Government, it shall be seized and confiscated and the offenders punished as circumstances may require.

#### ARTICLE X.

Whenever vessels of either of the two contracting states are detained on the coast of other through stress of weather or want of fuel or provisions they may enter any port or harbor either to take refuge therein or to get supplies, or to make repair; the expenses incurred thereby being defrayed by the ship's master. In such event the officers and people of the locality shall render all the assistance in their power and furnish the necessaries required.

If a vessel trades clandestinely at a port not open to commerce, or at any place where she is forbidden to proceed, the vessel, with her cargo, whether any trade has actually taken place or not, shall be seized and confiscated by the local

authorities and the nearest customs officials, and the offenders shall incur a fine of twice their original value.

Should a vessel of either power be wrecked on the coast of the other, the local authorities, on being informed of the occurrence, shall immediately render assistance to the crew, provide for their immediate necessities, and take requisite measures for the salvage of the ship and the preservation of her cargo. They shall also bring the matter to the knowledge of the nearest consular representative, in order that steps may be taken to send the crew home and to save the ship and her cargo. The necessary expenses shall be defrayed either by the ship's master or by the authorities of the nationality of the vessel concerned.

#### ARTICLE XI.

The officers and people of either power residing at trading places in the dominions of the other shall have the right to employ natives in any lawful capacity.

#### ARTICLE XII.

After the present treaty has been concluded, a tariff and rules shall be drawn up to regulate the frontier trade which has hitherto been carried on between the two Empires. All persons who have already crossed the frontier and reclaimed ground shall be allowed to pursue their avocations in peace and enjoy protection for their lives and property.

From this time forward migration across the frontier shall be prohibited on both sides in order to avoid complications.

The question of the determination of the site of a trade mart is reserved for discussion and settlement when the frontier rules come to be drawn up.

#### ARTICLE XIII.

The ships of war of each country shall be at liberty to visit all the ports of the other whether open to foreign trade or not.

They shall not be permitted to clandestinely import merchandise.

Supplies of all kinds for ships of war of either country shall not be liable to the payment of duties.

Officers and men of the ships of war of either country may land anywhere in the territories of the other, but shall not proceed into the interior unless they are provided with passports.

If articles used on board ship are for any reason sold, the purchaser shall pay the proper duty.

#### ARTICLE XIV.

The present treaty shall be ratified by His Majesty the Emperor of Korea and His Majesty the Emperor of China under their hands and seals, and the ratifications shall be exchanged at Seoul within one year at the latest from the date of signature, and immediately thereafter this treaty shall be in all its provisions publicly proclaimed and made known by both Governments in their respective countries, in order that it may be obeyed by their subjects, respectively.

#### ARTICLE XV.

The Chinese written character being common to both Korea and China, this treaty and future official correspondence shall be made in Chinese for the sake of clearness.

HSÜ SHOU PENG.

*Envoy Extraordinary and Minister Plenipotentiary 2<sup>nd</sup> Rank. Director of the Imperial Stud. For His Majesty the Emperor of China, 7th day, 8th moon, 25th year of Kuang, Su.*

PAK CHAI SOON,

*Envoy Extraordinary and Minister Plenipotentiary. Minister for Foreign Affairs and Councillor of State. 11th September, 1899. 3d year of Kwang Mu.*

*Mr. Allen to Mr. Hay.*

No. 216.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, December 22, 1899.*

SIR: I have the honor to inform you that after an interruption of five years, diplomatic relations have again been established between Korea and China.

The treaty, a copy of which I sent you in my No. 215, December 12, between Korea and China, has been finally exchanged, and Mr. Hsu Sou Pung, who negotiated the treaty on the part of China, has taken charge of Chinese interests here as envoy extraordinary and minister plenipotentiary. China has also appointed consuls to reside at the Korean ports—Chenampo, Chemulpo, Fusan, and at Seoul. Korea has appointed Mr. Sim Sang Hung to be minister plenipotentiary and envoy extraordinary at Peking.

Mr. Hsu, the new Chinese minister, was secretary of legation in Washington in 1888, when the first Korean legation was established there.

A public dinner is being given at the Korean foreign office to-night in honor of this resumption of diplomatic relations, the mere negotiations for which have lasted nearly one year.

I have the honor, etc.,

HORACE N. ALLEN.

## MEXICO.

### EXTRADITION OF MRS. MATTIE D. RICH.

*Señor Aspíroz to Mr. Hay.*

No. 16.]

MEXICAN EMBASSY,  
*Washington, May 18, 1899.*

SIR: Mattie Rich wounded her husband, John B. Rich, at Ciudad Juarez, in the State of Chihuahua, Mexico, several days since, and thereupon the couple, both of whom, as it appears, are American citizens, proceeded to El Paso, Tex., where Rich died of his wounds. The authorities of that place have imprisoned the aforesaid Mattie Rich, and the Mexican consul at El Paso has made application for her preliminary arrest.

As this is a case of homicide, for which provision is made in Article II of the convention concluded by the United States of Mexico with the United States of America for the extradition of criminals, which is now in force, I have the honor, in pursuance of instructions received from my Government, to inform you that the competent judge of my country has issued a warrant for the arrest of the aforesaid Mattie Rich, who is charged with the above-mentioned crime, and to promise you that the surrender of Mrs. Rich will soon be asked for by this embassy, which will present the warrant of arrest and a copy of the testimony, duly authenticated, on which the complaint is based.

I therefore beg you to be pleased to issue orders to the end that Mattie Rich may be apprehended and kept in safe custody for such time as may be necessary, until this embassy shall exhibit to your Department, with a formal demand for extradition, the documents required by the convention in question, which it will do within the forty days fixed in Article X of that convention.

I reiterate, etc.,

M. DE ASPÍROZ.

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*Mr. Hay to Señor Aspíroz.*

No. 12.]

DEPARTMENT OF STATE,  
*Washington, May 20, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th instant, requesting that Mattie Rich, who is charged in Mexico with the killing of her husband, John B. Rich, and who has since fled to the United States, be arrested and held in custody, pending the receipt from your Government of a formal demand for her extradition.

In reply I beg to inform you that when the forms of law applicable to the case shall have been complied with, your request will be given due consideration.



The evidence in support of the request for the extradition of the accused should be presented to the extradition magistrate to whom application is made for the preliminary arrest, in pursuance of our law.

Accept, etc.,

JOHN HAY.

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*Señor Aspíroz to Mr. Hay.*

No. 23.]

MEXICAN EMBASSY,  
*Manchester-by-the-Sea, Mass., July 6, 1899.*

MOST EXCELLENT SIR: The consul of Mexico at El Paso, Tex., informed me yesterday by telegraph that the United States commissioner in that city, before whom the proper legal proceedings had been instituted, according to the laws of this country, for the extradition of Mattie Rich, an American citizen, charged in Mexico with the murder of her husband, John B. Rich, had on that day decided that there was sufficient ground for said extradition, and had sent the necessary papers to the Department of State.

The legal formalities in this case having thus been complied with, it is time for you (as you promised in your note No. 12 of the 20th of May last) to take into due consideration the formal demand which, in the name of the Government of the United States of Mexico, I have the honor to make for the extradition of Mattie Rich, in virtue of the power which Article IV of the convention for the extradition of criminals, signed in the City of Mexico February 22, 1899, confers upon the Executive of the United States of America, as one of the contracting parties, to surrender American citizens if in his discretion he shall think proper to do so.

I therefore beg you, most excellent sir, to have the kindness to acquaint me, as speedily as possible, with the decision reached on the subject of this demand.

I reiterate, etc.,

M. DE ASPÍROZ.

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*Mr. Hay to Señor Aspíroz.*

No. 18.]

DEPARTMENT OF STATE,  
*Washington, July 11, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, making formal request for the extradition of Mattie Rich, charged with the murder of her husband in Mexico.

In reply I beg to inform you that the papers in the case have just come to the Department, which will give them prompt and attentive consideration; and that as soon as a decision is reached in the matter it will be communicated to you.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Señor Aspíroz.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, July 15, 1899.*

EXCELLENCY: Referring to the correspondence which has passed between your embassy and this Department with respect to the case

of Mattie D. Rich, charged with the murder of her husband, John D. Rich, in Ciudad Juarez, Chihuahua, Mexico, and especially to your note of the 6th instant making formal request for her extradition, I have the honor to inform you that the President has decided to extradite the fugitive as requested.

A formal warrant for her surrender to such person as may be authorized to receive her on behalf of the Mexican Government is therefore inclosed.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Clayton.*

No. 178.]

DEPARTMENT OF STATE,  
*Washington, July 19, 1899.*

SIR: This Government, at the request of the Mexican Government, has granted the extradition of an American citizen, Mrs. Mattie D. Rich, wife of John D. Rich, deceased, on the charge of the murder of her husband, alleged to have been committed in Mexico. The President felt that the case came fairly within the letter and spirit of the new treaty authorizing the extradition of citizens in the discretion of the Executive. With a view to the efficient operation of this clause of the treaty, it is thought desirable to avert, as far as possible, any occasion for popular agitation and arousing a sentiment hostile to the execution of this clause of the treaty in all proper cases. For this reason attention is called to the fact that strong pressure was brought to bear on the President in order to prevent the surrender of Mrs. Rich. Among the grounds of this opposition were (1) the fact that she is an American and ought not to be delivered to the justice of the Republic of Mexico; (2) her own written statement that she is enceinte; (3) her temporary insanity and mental irresponsibility since the commission of the crime, asserted by several physicians. None of these considerations were brought forward on the hearing before the extradition magistrate.

In overruling all of these objections, the view taken by the President was that she would receive a fair trial in Mexico; that if at the time the case is called for trial she is in such critical physical or mental condition as to disable her from attendance at the trial or to make full preparation for her defense, such reasonable delay of the trial would be granted as would enable her to do so; and that if she should be tried and condemned to capital punishment, the execution of the sentence would, in any event, be delayed until after the birth of the child, if she is shown to be enceinte; and as to the claim of insanity, that such steps would be judicially pursued as are suggested by the humane but firm administration of justice. Inasmuch as the evidence of her guilt is only circumstantial, the President would be pleased, if she shall be found guilty, if the extreme penalty of death should not be visited upon her; or, if pronounced, that it might be commuted to imprisonment. The President feels sure in advance that every opportunity will be accorded her to make full defense, to have the benefit of the attendance of such witnesses, in person or by deposition, as she may desire, and the employment of and consultation with counsel.

You will therefore informally bring these matters to the attention of the Mexican Government and request the use of its good offices for

the purposes aforesaid. You are at liberty to furnish it with a copy of this instruction, if you choose to do so.

I am, etc.,

JOHN HAY.

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*Mr. Clayton to Mr. Hay.*

No. 255.]

EMBASSY OF THE UNITED STATES,  
*Mexico, July 29, 1899.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 178, of the 19th instant, concerning the case of Mrs. Mattie D. Rich, an American citizen, wife of John D. Rich, an American, lately surrendered to the Mexican authorities, charged with the crime of murder, under the provisions of the treaty between the two Governments for the extradition of criminals, in which I am instructed to bring informally to the attention of the Mexican Government the motives that actuated the President in granting the surrender of Mrs. Rich and his views concerning her trial in Mexico.

Having been informed by Mr. Mariscal prior to the receipt of your aforesaid instruction that under the laws of Chihuahua the crime charged against Mrs. Rich is made punishable by imprisonment only—in other words, females in that State are not subjected to capital punishment for the crime of murder—in view of this fact, in quoting your instructions in my note to Mr. Mariscal, above referred to, I deemed it proper to eliminate that portion relating to the contingency of her condemnation to capital punishment and the execution of such sentence.

In conversation with Mr. Mariscal on the 27th instant he informed me that they had already taken precautions to give Mrs. Rich a room by herself where she would have better accommodations than are usually afforded prisoners and more liberty of action.

I feel confident that her imprisonment and trial will be of such a character as will leave no just cause of complaint on the part of any fair-minded person.

I inclose herewith a clipping<sup>1</sup> from the Mexican Herald of yesterday concerning her preliminary examination and the action of the judge in subjecting the chief of police to discipline on account of entering her cell, and referring to the fact that the United States has provided no lawyer for Mrs. Rich, that the American consul has not visited her since she was surrendered, and that she was not represented by an attorney in court.

Under the Mexican law this preliminary examination corresponds somewhat to our grand-jury investigations, and at such stage lawyers for the defense are not allowed, nor have spectators the right, to be present. I presume at the time referred to she was “incomunicado.”

I have, etc.,

POWELL CLAYTON.

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*Mr. Clayton to Mr. Hay.*

No. 300.]

EMBASSY OF THE UNITED STATES,  
*Mexico, August 24, 1899.*

SIR: Referring to my No. 255, of the 29th ultimo, stating that I had communicated in a note to the Mexican Government the instruc-

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<sup>1</sup> Not printed.

tions contained in your No. 178, of the 19th ultimo, I have the honor to inclose herewith a copy and translation of Mr. Mariscal's reply stating that he has transmitted my note to the governor of Chihuahua that he may communicate it to the judge who is trying Mrs. Rich's case, with the necessary recommendations that the indications therein contained may be properly regarded.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

*Mr. Mariscal to Mr. Clayton.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, August 17, 1899.*

Mr. AMBASSADOR: In due time I received your note of the 27th ultimo, relative to the delivery of Mrs. Mattie D. Rich, whose extradition was granted by the Government of the United States.

In reply I have the honor to say to your excellency that I have transmitted your said note to the governor of the State of Chihuahua, that he may communicate it to the judge who is trying Mrs. Rich's case, with the necessary recommendations that the indications therein contained may be properly regarded.

I renew, etc.,

IGNO. MARISCAL.

# BOUNDARY COMMISSION, CONVENTION BETWEEN MEXICO AND GUATEMALA EXTENDING.

*Mr. Clayton to Mr. Hay.*

No. 152.]

EMBASSY OF THE UNITED STATES,  
*Mexico, May 22, 1899.*

SIR: I have the honor to inclose herewith copy and translation of the decree promulgating the convention between Mexico and Guatemala, extending for two years from May 5, 1899, the period fixed for the completion of the work of the boundary commission.

This convention was signed on May 17, 1898, ratified by the President of Mexico on May 24, 1898, ratified by the President of Guatemala on April 7, 1899, and the ratifications were exchanged in this city on May 8, 1899.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

[From Diario Oficial.—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, May 9, 1899.*

The President of the Republic has seen fit to transmit to me the following decree:

"Porfirio Diaz, President of the United Mexican States, to the inhabitants thereof, know ye:

"That on the seventeenth day of May, one thousand eight hundred and ninety-eight, there was concluded and signed in this city of Mexico, by the plenipotentiaries duly authorized for the purpose, a convention between the United Mexican States and the Republic of Guatemala which prorogues the period fixed for the completion of the work of the commissions charged with drawing the boundary line between the two countries in the form and of the tenor following:

"The Government of the United Mexican States and the Government of the Republic of Guatemala considering that the period of two years fixed by article

four of the boundary treaty between the two countries of September twenty-seven, one thousand eight hundred and eighty-two, for the completion of the work of the commissions charged with drawing the boundary line, amplified and renewed by the protocol and conventions which will hereafter be mentioned, has not been sufficient for the purpose, and desiring that the said operations be completed, have agreed to again extend the said period, appointing their plenipotentiaries to that end, to wit:

"By the President of the United Mexican States, Licenciado Don Ignacio Mariscal, secretary of foreign relations, and

"By the President of the Republic of Guatemala, Licenciado Don Juan Francisco Rodríguez Castillejo, minister resident of Guatemala near the Government of Mexico:

"Who, duly authorized by their respective Governments, have agreed upon the following:

"Sole article. The high contracting parties agree that the period fixed by the boundary treaty of September twenty-seven, one thousand eight hundred and eighty-two, amplified and renewed by the protocol and conventions of July eight, one thousand eight hundred and eighty-five, of October sixteen, one thousand eight hundred and eighty-six, of October twenty-two, one thousand eight hundred and eighty-eight, of October twenty, one thousand eight hundred and ninety, of July ten, one thousand eight hundred and ninety-four, of March sixteen, one thousand eight hundred and ninety-six, and October six, one thousand eight hundred and ninety-seven, for the completion of the work of the commissions charged with drawing the boundary line between the two countries, shall be prorogued for one year which will expire on May five, one thousand eight hundred and ninety-nine.

"In testimony whereof the said plenipotentiaries have signed this convention and affixed thereto their respective seals.

"Done in two originals in the city of Mexico on the seventeenth day of the month of May, one thousand eight hundred and ninety-eight.

[L. S.]  
[L. S.]

"IGNACIO MARISCAL.  
"J. F. RODRIGUEZ.

"That the foregoing convention was approved by the Chamber of Senators of the United Mexican States on May twenty-three, one thousand eight hundred and ninety-eight, and ratified by me on the day following.

"That it was approved by the Legislative Assembly of Guatemala on April six of the present year and ratified by the President of the said Republic on the seventh day of the said month.

"And that the ratifications were exchanged in this capital on yesterday.

"Wherefore I order that the same be printed, published, and circulated and that it be duly observed.

"National Palace of Mexico, May nine, one thousand eight hundred and ninety-nine.

"PORFIRIO DÍAZ.

"LICENCIADO DON IGNACIO MARISCAL,  
"Secretary of Foreign Affairs."

And I inform you of the same for the consequent effects, renewing the assurances of my high consideration.

To \_\_\_\_\_.

MARISCAL.

## TREATY BETWEEN MEXICO AND GERMANY FOR THE PROTECTION OF TRADE-MARKS.

*Mr. Clayton to Mr. Hay.*

No. 156.]

EMBASSY OF THE UNITED STATES,  
*Mexico, May 23, 1899.*

SIR: I have the honor to inclose herewith copy and translation of the decree promulgating the treaty between Mexico and Germany for the protection of trade-marks in the two countries.

I have the honor to be, sir, etc.,

POWELL CLAYTON.

[Inclosure.]

[From Diario Oficial.—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, May 16, 1899.*

The President of the Republic has been pleased to remit to me the following decree:

“Porfirio Díaz, President of the United Mexican States, to the inhabitants thereof, know ye:

“That on the sixteenth day of August last there was concluded and signed in this city, by the plenipotentiaries appointed for the purpose by Mexico and Germany, a treaty, the object of which is to secure the protection of the trade-marks of the producers existing in both countries, the tenor of which is as follows:

“The Government of the United Mexican States and the Government of the German Empire having agreed to secure, reciprocally, the protection of the trade-marks of the producers residing in the two countries, the undersigned, duly authorized for the purpose, have agreed upon the following provisions:

“ARTICLE I. With respect to the denomination of the merchandise and its package, as well as with relation to the trade-marks of manufacture and commerce, the producers residing in Mexico shall enjoy in Germany, and the producers residing in Germany shall enjoy in Mexico, the same protection had by the producers residing in Germany, or, respectively, by those residing in Mexico, the possession of any establishment, shop, or agency for the sale of their goods in the other country not being necessary, but with the restricting to comply with the other legal requisites which may be required by the one or the other country.

“ARTICLE II. The present declaration shall begin to rule in each of the two contracting countries from the day of its official publication, and it shall continue to be in force until the expiration of the six months following the notice which one of the contracting parties may give to the other.

“In testimony whereof the undersigned have drawn up the present declaration and have affixed their respective seals thereto.

“Done in the City of Mexico in two originals on August sixteen, of the year one thousand eight hundred and ninety-eight.

“IGNATIO MARISCAL,

“*The Secretary of Foreign Affairs.*

“BARON DE KETTELER,

“*The Minister of the German Empire.*

“That the foregoing convention was approved by the Senate of the United Mexican States on the twelfth of April last and ratified by me on the seventeenth of the same month.

“And that it was also approved by the German Government, according to information received from its diplomatic envoy accredited here, by note of the twenty-seventh of April last.

“Wherefore I order that it be printed, published, circulated, and that it be duly observed.

“Given in the National Palace of Mexico on the sixteenth of May, one thousand eight hundred and ninety-nine.

“PORFIRIO DÍAZ.

“LICENCIATE DON IGNACIO MARISCAL,

“*Secretary of Foreign Relations.*”

And I inform you of the same for the consequent effects, renewing the assurances of my high consideration.

MARISCAL.

To ————.

**INVITATION TO THE PRESIDENT OF MEXICO TO BE PRESENT AT  
THE LAYING OF THE CORNER STONE OF THE UNITED STATES  
GOVERNMENT BUILDING AT CHICAGO.**

*Mr. Adee to Mr. Clayton.*

No. 196.]

DEPARTMENT OF STATE,  
*Washington, August 11, 1899.*

SIR: I desire to bring to your attention the following invitation addressed to

"His Excellency PORFIRIO DIAZ,  
"President of the United States of Mexico:

"The people of Chicago request the honor of your presence at the ceremonies attending the laying of the corner stone of the United States Government building by the President, on Monday, October 9, 1899."

The original of this invitation is in the possession of the committee duly empowered to present it to the President of Mexico and formally invite him, his cabinet, and friends to attend, as the guests of the citizens of Chicago, Ill., the ceremonies attending the laying of the corner stone of the United States Government building on Chicago day, Monday, October 9, 1899, the anniversary of the great Chicago fire.

While the celebration of the laying of the corner stone will take place on October 9, 1899, yet other interesting features will begin on the 5th and continue until the 12th of October. During these periods it is the wish of the committee, so I understand, that President Diaz and his friends from Mexico shall be present and participate. The occasion will be one of much interest to the people of the United States, and the assemblage will include the President of the United States, his Cabinet, and many distinguished citizens in official and private life.

You will take early opportunity to arrange, through the minister for foreign affairs, for a meeting between President Diaz and the committee, at such time as may be agreeable to him, to the end that the committee may formally present the invitation and urge its acceptance.

The special committee charged with the agreeable duty is composed of the following gentlemen: Mr. Walter C. Hatley, Mr. La Verne W. Noyes, Mr. William D. Washburn, Mr. Edwin F. Getchell, Mr. Josiah Stiles, Mr. John Ward Amberg, Mr. Charles U. Gordon, chairman; Mr. William B. Roberts, secretary. The ladies of the party are: Mrs. Charles U. Gordon, Miss Pate, Miss Stoddard, Miss Stiles.

The committee expect to leave Chicago this evening and to reach the city of Mexico about the 17th instant. If possible, the committee hope to be formally presented to President Diaz on the 18th, provided that date is entirely agreeable to him.

It would be gratifying to the Department to learn that President Diaz had found it practicable to be present. While the ceremonies are in no wise connected with the Government of the United States, notwithstanding they are to commemorate the laying of the corner stone of a great public building, yet you may indicate to President Diaz that the President of the United States, who, like his Mexican colleague, intends to be the guest of the citizens of Chicago on that occasion, would find great pleasure in meeting him there. The President also directs me to say that in the event of the acceptance by

President Diaz of the invitation, a representative of the Government of the United States will meet him at the frontier and escort him to Chicago.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Clayton to Mr. Hay.*

No. 303.]

EMBASSY OF THE UNITED STATES,  
*Mexico, August 25, 1899.*

SIR: Referring to your instruction, No. 196, of the 11th instant, concerning the invitation of the citizens of Chicago to President Diaz and his cabinet to attend, as the guests of that city, the ceremonies attending the laying of the corner stone of the United States Government building on "Chicago Day," Monday, October 9, 1899, the anniversary of the great Chicago fire, I have the honor to report that immediately upon the arrival of the committee, on the 18th instant, consisting of Messrs. Charles U. Gordon, chairman, W. C. Hatley, William D. Washburn, Edwin F. Getchel, Josiah Stiles, John Ward Amberg, and William B. Roberts, secretary, I arranged, through the minister of foreign affairs, for their reception at the President's residence at Chapultepec on the following day, to which place I conducted the committee at the appointed hour, and my daughter conducted the ladies of the party, Mrs. Charles U. Gordon, Miss Pate, and Miss Stiles.

In introducing the gentlemen to the President, I stated that they constituted a committee charged by the citizens of Chicago with the pleasant duty of presenting to him an invitation to be present at the ceremonies above referred to, and that after the chairman had extended the invitation, if it was the pleasure of the President, I would supplement, in a measure, what he might say, by conveying to His Excellency the substance of my official instructions upon the subject.

After Mr. Gordon had delivered his address of invitation, a copy of which is herewith inclosed, I took occasion to say that I was instructed to inform His Excellency that in the event of his acceptance of the invitation just tendered, a representative of the United States would meet him at the frontier and escort him to Chicago, where the President of the United States, who had accepted a similar invitation to be present as the guest of the citizens of that city, would have great pleasure in meeting him.

The President replied to the invitation of the committee, indicating the pleasure it would give him to be present and grasp the hand of President McKinley and other distinguished citizens of the United States; but, he said, to do so would require the consent of Congress, which he would ask when it convened on the 16th of September next, and he would thereafter inform the committee, through the Mexican ambassador at Washington, of the result. A copy and translation of the President's remarks are herewith inclosed.

At the termination of these ceremonies the gentlemen of the committee were introduced to Mrs. Diaz (to whom the ladies had already been presented by my daughter), and Chairman Gordon, in a few well-chosen remarks, presented to her an invitation to be present upon the occasion mentioned. After a half hour's pleasant social intercourse the party took its departure, having first been invited to dine with the President and Mrs. Diaz on Monday, the 21st instant, at 1 o'clock,



which invitation was also extended to myself and family. The dinner took place as stated, at which were present, in addition to the President and his family, Mr. and Mrs. Mariscal, Mr. Gamboa, under secretary for foreign affairs, the members of the committee, the ladies of their party, my daughter, and myself. After dinner the ladies were escorted by Mrs. Diaz to the house and grounds of her daughter-in-law, Mrs. De La Torre, at Tacobaya, while the President conducted the gentlemen of the party through the military school at Chapultepec.

The following day I accompanied the committee to the offices of the different members of the cabinet, to whom separate invitations were extended.

During the sojourn of the committee in the city they were treated with the greatest consideration by the President, two of his carriages being constantly at their disposal, as well as one of my own; also the President's private street car.

On the night of the 23d instant the committee left for their homes via Guadalajara, the President having placed his private railway car at their disposal, which they accepted as far as Guadalajara, and return to the junction of the main line. The chief of the President's staff accompanied them, and the members of the President's family and others were at the depot with a band of music furnished by the President when they took their departure.

The acceptance of the invitation by the President I consider a matter of doubt, although he may conclude to do so.

I have, etc.,

POWELL CLAYTON.

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[Inclosure 1.]

*Address of Chairman Gordon.*

MR. PRESIDENT: On the 9th day of October, which will mark the twenty-eighth anniversary of the great fire in the city of Chicago—a calamity which shocked all the nations and aroused a universal sympathy, but out of which have come in a few brief years a marvelous resurrection and a new life and social development, surprising the world and receiving the admiration of mankind—the corner stone will be laid of a noble public building, to be devoted to the use of the Government of the United States of America and its citizens. This occurrence will be signalized by ceremonies appropriate to an occasion of so great moment. It is expected that there will then be assembled many thousands of our citizens in a demonstration of patriotic sentiment, and that among them will be the President of the United States, members of the National Senate and House of Representatives and of the Federal Supreme Court, representatives of foreign countries, great soldiers of the Army and famous captains of the Navy who have bravely borne our flag on land and sea, governors of the States, high officials of our cities and local communities, and many leaders in private station of the thought and action of our nation's life, gathered to make memorable, by their presence, this most significant event.

A committee of Chicago citizens, of which committee I have the honor to be chairman, have journeyed to the capital of your great nation, and with profound respect are before you to extend, through me, the most cordial invitation of our people that you be the guest of the city of their love and pride as a participant in its celebration.

Mr. President, I need not assure you of the friendship and sympathy which hold together and firmly bind in common aspirations the Republics of freedom, the United States of Mexico and the United States of America. Side by side, their peoples are realizing humanity's long dream of a successful and permanent popular and constitutional government, in which the citizen is the sovereign and the liberty of the individual is subject only to the welfare of the community and to the laws made in the furtherance thereof; and no assurances need be spoken to you of the deep sentiments of respect for your own personality and admiration for your magnificent career which are earnestly entertained by the American people.

If you will grant us an acceptance of the invitation which is now extended, you,

as the foremost citizen of the United States of Mexico, will be greeted by the universal heart of the American Republic and be welcomed to its most sincere hospitality.

I beg to hand you the formal requests from the governor of Illinois, the governors of other States, the mayor of the city of Chicago, mayors of other cities, presidents of many universities and colleges, and other prominent men of the nation, and also resolutions of our city council and other municipal legislatures, urging you to favor Chicago with your presence and extend your journeying to other portions of our Republic.

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[Inclosure 2.]

*Reply of President Diaz.*

GENTLEMEN: I feel grateful, nay proud, at receiving from the people of a city who are the model of energy and intelligence, an invitation so courteous, handed to me through so distinguished a channel.

The free and laborious citizens of Chicago are right in celebrating the anniversary of a lamentable catastrophe, inasmuch as it served by a species of vigorous reaction to display to the entire world the immense power of their energy, intellect, and other characteristic virtues.

It will be a pleasure and an honor to me to avail myself of the commemoration of the twenty-eighth anniversary of the event in question, to clasp the hand of the honorable President of the United States, of the authorities of that Republic, and of the distinguished soldiers who have carried its flag to so glorious a height.

But in order to leave the national territory I must obtain the permission of the Federal Congress, as is commanded by the fundamental law of the nation. As soon as Congress meets—that is to say, on the 16th of September next—I will ask for that permission, and the honorable delegation which has been pleased to invite me will be informed of the result of my petition through the Mexican ambassador at Washington, whom I will instruct to wait on you in Chicago. I will also communicate to the ambassador of the United States at this city the resolution of the Mexican Congress.

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*Mr. Hay to Mr. Clayton.*

No. 213.]

DEPARTMENT OF STATE,  
*Washington, September 7, 1899.*

SIR: I have to acknowledge the receipt of your No. 303, of August 25, 1899, concerning the presentation to President Diaz of the Chicago committee, in order that it might invite him to attend the ceremonies in Chicago in October next, during the laying of the corner stone of the United States Government building there.

I take this occasion to compliment you on the successful and graceful manner in which you have carried out the Department's instructions.

I am, etc.,

JOHN HAY.

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*Mr. Clayton to Mr. Hay.*

No. 335.]

EMBASSY OF THE UNITED STATES,  
*Mexico, September 20, 1899.*

SIR: I have the honor to inclose herewith a clipping<sup>1</sup> from the Mexican Herald of to-day, reporting the proceedings of the two Houses of Congress yesterday, in joint session, granting the President a leave of absence of twenty days with permission to visit the United States to attend the Chicago festivities, also appropriating \$100,000 for his expenses should he accept the invitation lately extended to him.

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<sup>1</sup> Not printed.

In this connection I have the honor to report that I called upon the President on the 18th instant, and during the course of the interview I alluded to the question of his accepting the invitation. He remarked that he was yet in doubt as to his action; that the Presidential, gubernatorial, and judicial elections were approaching, and that he had upon his hands an uprising of the Yaqui tribe of Indians, and was about to inaugurate a military movement for the subjection of the Mayo Indians in Yucatan, who were defying the national authority; that his going would depend upon the condition of affairs existing at the time of his decision. I asked him, in case it should turn out that he could not go, which I hoped would not be the case, whether one or more members of his cabinet would go. He answered in the affirmative.

In an interview with Mr. Mariscal yesterday I incidentally brought up the same question. He alluded to the fact that Mrs. Diaz is confined to her bed with sickness, and that the doctors thought she would be so indisposed for two or three weeks, and that he thought the question of the President's acceptance would depend upon the condition of her health at the time of his decision.

I am still of the opinion that the President's acceptance is very problematical. However, in the event he should decide to go, and in view of the fact that a formal invitation was extended to me by the Chicago committee to attend, I should like to know the views of the Department as to what will be expected of me in such an emergency. I have been informed by one of my diplomatic colleagues that it is customary in Europe where one sovereign visits another for the diplomatic representative at the capital of the visiting sovereign to accompany him. While I have no wishes to express, I have deemed it proper to bring the matter to your attention.

I have, etc.,

POWELL CLAYTON.

*Mr. Clayton to Mr. Hay.*

No. 356.]

EMBASSY OF THE UNITED STATES,  
*Mexico, September 27, 1899.*

SIR: Having been informed by Mr. Mariscal, last Monday, that the President had decided that day not to visit Chicago, but to send him (Mr. Mariscal) as his personal representative, I immediately telegraphed the Department, in cipher, as follows:

The President will not visit Chicago. Minister for foreign affairs goes instead.

I sent this dispatch in cipher because I had reason to believe that the information thus conveyed was in advance of the information sent by the Mexican Government to Mr. Charles U. Gordon, chairman of the invitation committee at Chicago, and to the Mexican ambassador at Washington.

Upon receipt of Mr. Hill's message of yesterday, reading:

Is Señor Mariscal personal representative of President? Where does he cross the frontier?

I obtained the requisite information, and answered as follows:

Mariscal goes as personal representative of President, via Eagle Pass.

I have the honor to transmit herewith a copy and translation of a note from Mr. Mariscal, under date of yesterday, received to-day, transmitting to me a copy of a communication addressed by President Diaz to Mr. Charles U. Gordon, of Chicago, copy and translation inclosed, in which communication the President states the reasons

that caused him to abandon his visit to Chicago, and informs Mr. Gordon that he has designated Mr. Ignacio Mariscal, secretary for foreign affairs, to represent him there.

I have just received Mr. Hill's telegraphic instruction of to-day, reading as follows:

The President charges you to appropriately express his sincere regrets that President Diaz is prevented from carrying out his intention to visit Chicago on the occasion of the corner-stone celebration, and to assure President Diaz of his sympathy for Señora Diaz's illness and his hope for a speedy recovery. You will add that Señor Mariscal, as the personal representative of President Diaz, will receive every consideration due to his distinguished office and representative character.

I have arranged for an interview with the President at the National Palace at 5 o'clock this afternoon, at which time I will comply with said instruction.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

*Mr. Mariscal to Mr. Clayton.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, September 26, 1899.*

MR. AMBASSADOR: I have the honor to send to your excellency a copy of the letter which, under date of yesterday, the President of the Republic addressed to Mr. Charles U. Gordon, stating the reasons why he excuses himself from assisting at the festivities which will take place in Chicago, and designating me to represent him.

I avail myself, etc.,

IGNO. MARISCAL.

[Subinclosure.—Translation.]

*President Diaz to Mr. Gordon.*

MEXICO, September 25, 1899.

MY DEAR SIR: In accordance with my promise to you and your honorable associates of the committee, made at the time when an invitation to attend the coming festivities in Chicago was so courteously presented to me, shortly after the opening of the regular session of Congress I applied for the necessary leave to go outside of the national territory. It was granted immediately, undoubtedly with the object of taking advantage of the occasion to increase and strengthen the friendly relations of the two countries. Nothing seemed to interfere with the realization of my wishes, which had already been expressed, to respond, by my immediate acceptance, to the kind terms in which the invitation was couched. Now, however, they are unfortunately opposed by the consideration, among others, that during my absence motives of delicacy on the part of my substitute and of all the members of the cabinet would prevent their dispatching several important matters now pending and in which delay could not fail to be prejudicial.

And besides, my wife's health has been recently affected, and although serious consequences are not apprehended, it is the opinion of the physicians that her illness may be prolonged, all of which causes me to fear that some unexpected attack might occur.

These reasons compel me, much to my regret, not to take advantage of the leave granted by Congress, and to beg that you will make my excuses to the governor of Illinois and the mayor of Chicago, and to each and every one of the persons who so kindly invited me and to whom I am profoundly grateful for their courtesy and attention. I will never forget the honor they have personally done me, nor the distinction accorded to Mexico by inviting me, as they have done on this occasion, in terms exceptionally complimentary and expressive.

And as it is not possible for me to be present in person, I have designated Mr. Ignacio Mariscal, the secretary of foreign affairs, recently appointed by Congress to substitute me during my prolonged absence, to represent me at Chicago's great festival on the 9th proximo.

I have the pleasure to remain, your friend and servant,

PORFIRIO DIAZ.

*Mr. Clayton to Mr. Hay.*

No. 357.]

EMBASSY OF THE UNITED STATES,  
*Mexico, September 28, 1899.*

SIR: Referring to my dispatch No. 356, of yesterday, concerning the instruction contained in Mr. Hill's telegraphic message of the same day directing me to express the regret of the President of the United States that circumstances had arisen causing President Diaz to abandon his visit to Chicago, etc., I have the honor to report that I called upon the President at the National Palace at 5 o'clock yesterday afternoon, and in the execution of the aforesaid instruction I addressed the President as follows:

MR. PRESIDENT: I am charged by the President of the United States to express to you his sincere regret that circumstances have arisen which prevent your excellency from carrying out your intention to visit Chicago on the occasion of the laying of the corner stone of the United States building in that city, and to assure your excellency of his sympathy on account of the illness of Señora Diaz, and his hope for her speedy recovery. The President also directed me to say that Mr. Mariscal, as the personal representative of Your Excellency, will receive every consideration due to his high office and his distinguished representative character.

The President replied that he thanked the President of the United States for his kind expressions conveyed through me, and requested me to say that he regretted very much that existing circumstances prevented his accepting the invitation of the Chicago committee, because he felt confident of the fact that had he been able to go it would have been conducive to furthering relations between the United States and Mexico.

I have, etc.,

POWELL CLAYTON.

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*Mr. Clayton to Mr. Hay.*

No. 363.]

EMBASSY OF THE UNITED STATES,  
*Mexico, October 3, 1899.*

SIR: Referring to my dispatches Nos. 356 and 357, of the 27th and 28th ultimo, concerning Mr. Mariscal's visit to Chicago as the representative of President Diaz, I have the honor to report that about noon on the 29th ultimo I received a telegraphic dispatch from Gen. Chambers McKibben, dated San Antonio, Tex., reading as follows:

Have been delegated by President to meet Señor Mariscal, minister of foreign affairs of Mexico, at United States boundary, Eagle Pass. Request information when train is expected to arrive at Eagle Pass.

McKIBBEN,  
*Commanding Department of Texas.*

Whereupon I immediately asked of the foreign office the information required, and having been informed that Mr. Mariscal would leave on the night of the 30th ultimo and arrive at Eagle Pass on morning of October 4, I wired General McKibben the same day, as follows:

Mariscal will arrive Eagle Pass morning of October 4.

Mr. Mariscal, being a sufferer from insomnia, previously informed me of his intention to have his train lay over at nights between Mexico and the border, which accounts for his long itinerary in Mexico.

I have, etc.,

POWELL CLAYTON.

## NETHERLANDS.

### INTERNATIONAL (PEACE) CONFERENCE AT THE HAGUE.

*Mr. Hay to Hon. Andrew D. White, Hon. Seth Low, Hon. Stanford Newel, Capt. Alfred T. Mahan, U. S. N., Capt. William Crozier, U. S. A., delegates on the part of the President of the United States.*

DEPARTMENT OF STATE,  
*Washington, April 18, 1899.*

GENTLEMEN: You have been appointed by the President to constitute a commission to represent him at an international conference called by His Imperial Majesty the Emperor of Russia to meet at The Hague, at a time to be indicated by the Government of the Netherlands, for the purpose of discussing the most efficacious means of assuring to all peoples the "benefits of a real and durable peace."

Upon your arrival at The Hague you will effect an organization of your commission, whose records will be kept by your secretary, Hon. Frederick W. Holls. All reports and communications will be made through this Department, according to its customary forms, for preservation in the archives.

The programme of topics suggested by the Russian minister of foreign affairs for discussion at the conference in his circular of December 30, 1898, is as follows:

1. An understanding stipulating the nonaugmentation, for a term to be agreed upon, of the present effective armed land and sea forces, as well as the war budgets pertaining to them; preliminary study of the ways in which even a reduction of the aforesaid effectives and budgets could be realized in the future.
2. Interdiction of the employment in armies and fleets of new firearms of every description and of new explosives, as well as powder more powerful than the kinds used at present, both for guns and cannons.
3. Limitation of the use in field fighting of explosives of a formidable power, such as now in use, and prohibition of the discharge of any kind of projectiles or explosives from balloons or by similar means.
4. Prohibition of the use in naval battles of submarine or diving torpedo boats, or of other engines of destruction of the same nature; agreement not to construct in the future warships armed with rams.
5. Adaptation to naval war of the stipulation of the Geneva convention of 1864, on the base of the additional articles of 1868.
6. Neutralization, for the same reason, of boats or launches employed in the rescue of the shipwrecked during or after naval battles.
7. Revision of the declaration concerning the laws and customs of war elaborated in 1874 by the conference of Brussels, and not yet ratified.
8. Acceptance, in principle, of the use of good offices, mediation, and voluntary arbitration, in cases where they are available, with the purpose of preventing armed conflicts between nations; understanding in relation to their mode of application and establishment of a uniform practice in employing them.

It is understood that all questions concerning the political relations of States and the order of things established by treaties, as in general all the questions which shall not be included directly in the programme adopted by the cabinets, should be absolutely excluded from the deliberations of the conference.

The first article, relating to the nonaugmentation and future reduction of effective land and sea forces, is, at present, so inapplicable to the United States that it is deemed advisable for the delegates to leave the initiative upon this subject to the representatives of those powers to which it may properly belong. In comparison with the effective forces, both military and naval, of other nations, those of the United States are at present so far below the normal quota that the question of limitation could not be profitably discussed.

The second, third, and fourth articles, relating to the nonemployment of firearms, explosives, and other destructive agents, the restricted use of existing instruments of destruction, and the prohibition of certain contrivances employed in naval warfare, seem lacking in practicability, and the discussion of these propositions would probably prove provocative of divergence rather than unanimity of view. It is doubtful if wars are to be diminished by rendering them less destructive, for it is the plain lesson of history that the periods of peace have been longer protracted as the cost and destructiveness of war have increased. The expediency of restraining the inventive genius of our people in the direction of devising means of defense is by no means clear, and considering the temptations to which men and nations may be exposed in a time of conflict, it is doubtful if an international agreement to this end would prove effective. The dissent of a single powerful nation might render it altogether nugatory. The delegates are, therefore, enjoined not to give the weight of their influence to the promotion of projects the realization of which is so uncertain.

The fifth, sixth, and seventh articles, aiming in the interest of humanity to succor those who by the chance of battle have been rendered helpless, thus losing the character of effective combatants, or to alleviate their sufferings, or to insure the safety of those whose mission is purely one of peace and beneficence, may well awake the cordial interest of the delegates, and any practicable propositions based upon them should receive their earnest support.

The eighth article, which proposes the wider extension of good offices, mediation and arbitration, seems likely to open the most fruitful field for discussion and future action. "The prevention of armed conflicts by pacific means," to use the words of Count Mouravieff's circular of December 30, is a purpose well worthy of a great international convention, and its realization in an age of general enlightenment should not be impossible. The duty of sovereign states to promote international justice by all wise and effective means is only secondary to the fundamental necessity of preserving their own existence. Next in importance to their independence is the great fact of their interdependence. Nothing can secure for human government and for the authority of law which it represents so deep a respect and so firm a loyalty as the spectacle of sovereign and independent states, whose duty it is to prescribe the rules of justice and impose penalties upon the lawless, bowing with reverence before the august supremacy of those principles of right which give to law its eternal foundation.

The proposed conference promises to offer an opportunity thus far unequalled in the history of the world for initiating a series of negotiations that may lead to important practical results. The long-continued and widespread interest among the people of the United States in the establishment of an international court, as evidenced in the historical résumé attached to these instructions as Annex A, gives assurance that the proposal of a definite plan of procedure by this

Government for the accomplishment of this end would express the desires and aspirations of this nation. The delegates are, therefore, enjoined to propose, at an opportune moment, the plan for an international tribunal, hereunto attached as Annex B, and to use their influence in the conference in the most effective manner possible to procure the adoption of its substance or of resolutions directed to the same purpose. It is believed that the disposition and aims of the United States in relation to the other sovereign powers could not be expressed more truly or opportunely than by an effort of the delegates of this Government to concentrate the attention of the world upon a definite plan for the promotion of international justice.

Since the conference has its chief reason of existence in the heavy burdens and cruel waste of war, which nowhere affect innocent private persons more severely or unjustly than in the damage done to peaceable trade and commerce, especially at sea, the question of exempting private property from destruction or capture on the high seas would seem to be a timely one for consideration.

As the United States has for many years advocated the exemption of all private property not contraband of war from hostile treatment, you are authorized to propose to the conference the principle of extending to strictly private property at sea the immunity from destruction or capture by belligerent powers which such property already enjoys on land as worthy of being incorporated in the permanent law of civilized nations.

I am, etc.

JOHN HAY.

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INTERNATIONAL CONFERENCE AT THE HAGUE—REPORT OF THE COMMISSION OF THE UNITED STATES OF AMERICA.

THE HAGUE, *July 31, 1899.*

The Hon. JOHN HAY,  
*Secretary of State.*

SIR: On May 17, 1899, the American commission to the Peace Conference of the Hague met for the first time at the house of the American minister, the Hon. Stanford Newel, the members, in the order named in the instructions from the State Department, being Andrew D. White, Seth Low, Stanford Newel, Capt. Alfred T. Mahan of the United States Navy, Capt. William Crozier of the United States Army, and Frederick W. Holls, secretary. Mr. White was elected president, and the instructions from the Department of State were read.

On the following day the conference was opened at the palace known as "The House in the Wood," and delegates from the following countries, twenty-six in number, were found to be present: Germany, the United States of America, Austria-Hungary, Belgium, China, Denmark, Spain, France, Great Britain and Ireland, Greece, Italy, Japan, Luxembourg, Mexico, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Servia, Siam, Sweden and Norway, Switzerland, Turkey, and Bulgaria.

The opening meeting was occupied mainly by proceedings of a ceremonial nature, including a telegram to the Emperor of Russia, and a message of thanks to the Queen of the Netherlands, with speeches by Mr. De Beaufort, the Netherlands minister of foreign affairs, and Mr. De Staal, representing Russia.



At the second meeting a permanent organization of the conference was effected, Mr. De Staal being chosen president, Mr. De Beaufort honorary president, and Mr. van Karnebeek, a former Netherlands minister of foreign affairs, vice-president. A sufficient number of secretaries were also named.

The work of the conference was next laid out with reference to the points stated in the Mouravieff circular of December 30, 1898, and divided between three great committees as follows:

The first of these committees was upon the limitation of armaments and war budgets, the interdiction or discouragement of sundry arms and explosives which had been or might be hereafter invented, and the limitation of the use of sundry explosives, projectiles, and methods of destruction, both on land and sea, as contained in articles 1 to 4 of the Mouravieff circular.

The second great committee had reference to the extension of the Geneva Red Cross rules of 1864 and 1868 to maritime warfare, and the revision of the Brussels declaration of 1874 concerning the laws and customs of war, as contained in articles 5 to 7 of the same circular.

The third committee had as its subjects mediation, arbitration, and other methods of preventing armed conflicts between nations, as referred to in article 8 of the Mouravieff circular.

The American members of these three committees were as follows: Of the first committee, Messrs. White, Mahan, Crozier; of the second committee, Messrs. White, Newel, Mahan, Crozier; of the third committee, Messrs. White, Low, and Holls.

In aid of these three main committees subcommittees were appointed as follows:

The first committee referred questions of a military nature to the first subcommittee, of which Captain Crozier was a member, and questions of a naval nature to the second subcommittee, of which Captain Mahan was a member.

The second committee referred articles 5 and 6, having reference to the extension of the Geneva rules to maritime warfare, to a subcommittee of which Captain Mahan was a member, and article 7, concerning the revision of the laws and customs of war, to a subcommittee of which Captain Crozier was a member.

The third committee appointed a single subcommittee of "examination," whose purpose was to scrutinize plans, projects, and suggestions of arbitration, and of this committee Mr. Holls was a member.

The main steps in the progress of the work wrought by these agencies, and the part taken in it by our commission are detailed in the accompanying reports, made to the American commission by the American members of the three committees of the conference. It will be seen from these that some of the most important features finally adopted were the result of American proposals or suggestions.

As to that portion of the work of the first committee of the conference which concerned the nonaugmentation of armies, navies, and war budgets for a fixed term, and the study of the means for eventually diminishing armies and war budgets, namely article 1, the circumstances of the United States being so different from those which obtain in other parts of the world, and especially in Europe, we thought it best, under our instructions, to abstain from taking any active part. In this connection the following declaration was made:

The delegation of the United States of America have concurred in the conclusions upon the first clause of the Russian letter of December 30, 1898, presented to the conference by the first commission, namely, that the proposals of the

Russian representatives, for fixing the amounts of effective forces and of budgets, military and naval, for periods of five and three years, can not now be accepted, and that a more profound study upon the part of each State concerned is to be desired. But, while thus supporting what seemed to be the only practicable solution of a question submitted to the conference by the Russian letter, the delegation wishes to place upon the record that the United States, in so doing, does not express any opinion as to the course to be taken by the States of Europe.

This declaration is not meant to indicate mere indifference to a difficult problem, because it does not affect the United States immediately, but expresses a determination to refrain from enunciating opinions upon matters into which, as concerning Europe alone, the United States has no claim to enter. The words drawn up by M. Bourgeois, and adopted by the first commission, received also the hearty concurrence of this delegation, because in so doing it expresses the cordial interest and sympathy with which the United States, while carefully abstaining from anything that might resemble interference, regards all movements that are thought to tend to the welfare of Europe. The military and naval armaments of the United States are at present so small, relatively to the extent of territory and to the number of the population, as well as in comparison with those of other nations, that their size can entail no additional burden of expense upon the latter, nor can even form a subject for profitable mutual discussion.

As to that portion of the work of the first committee which concerned the limitations of invention and the interdiction of sundry arms, explosives, mechanical agencies, and methods heretofore in use or which might possibly be hereafter adopted, as regards warfare by land and sea, namely, articles 2, 3, and 4, the whole matter having been divided between Captains Mahan and Crozier so far as technical discussion was concerned, the reports made by them from time to time to the American commission formed the basis of its final action on these subjects in the first committee and in the conference at large.

The American commission approached the subject of the limitation of invention with much doubt. They had been justly reminded in their instructions of the fact that by the progress of invention, as applied to the agencies of war, the frequency, and, indeed, the exhausting character of war had been, as a rule, diminished rather than increased. As to details regarding missiles and methods, technical and other difficulties arose which obliged us eventually, as will be seen, to put ourselves on record in opposition to the large majority of our colleagues from other nations on sundry points. While agreeing with them most earnestly as to the end to be attained, the difference in regard to some details was irreconcilable. We feared falling into evils worse than those from which we sought to escape. The annexed reports of Captains Mahan and Crozier will exhibit very fully these difficulties and the decisions thence arising.

As to the work of the second great committee of the conference, the matters concerned in articles 5 and 6, which related to the extension to maritime warfare of the Red-Cross rules regarding care for the wounded, adopted in the Geneva Convention of 1864 and 1868, were, as already stated, referred, as regards the discussion of technical questions in the committee and subcommittee, to Captain Mahan, and the matters concerned in article 7, on the revision of the laws and customs of war, were referred to Captain Crozier. On these technical questions Captains Mahan and Crozier reported from time to time to the American commission, and these reports, having been discussed both in regard to their general and special bearings, became the basis of the final action of the entire American commission both in the second committee and in the conference at large.

As to the first of these subjects, the extension of the Geneva Red Cross rules to maritime warfare, while the general purpose of the articles adopted elicited the especial sympathy of the American com-

mission, a neglect of what seemed to us a question of almost vital importance, namely, the determination of the status of men picked up by the hospital ships of neutral States or by other neutral vessels, has led us to refrain from signing the convention prepared by the conference touching this subject and to submit the matter with full explanations to the Department of State for decision.

As to the second of these subjects, the revision of the laws and customs of war, though the code adopted and embodied in the third convention commends our approval, it is of such extent and importance as to appear to need detailed consideration in connection with similar laws and customs already in force in the Army of the United States, and it was thought best therefore to withhold our signature from this convention also and to refer it to the State Department with a recommendation that it be there submitted to the proper authorities for special examination and signed, unless such examination shall disclose imperfections not apparent to the commission.

As to the third great committee of the conference, that which had in charge the matters concerned in article 8 of the Russian circular with reference to good offices, mediation, and arbitration, the proceedings of the subcommittee above referred to became especially important.

While much interest was shown in the discussions of the first great committee of the conference, and still more in those of the second, the main interest of the whole body centered more and more in the third. It was felt that a thorough provision for arbitration and its cognate subjects is the logical precursor of the limitation of standing armies and budgets, and that the true logical order is first arbitration and then disarmament.

As to subsidiary agencies to arbitration, while our commission contributed much to the general work regarding good offices and mediation it contributed entirely, through Mr. Holls, the "Plan for special mediation" which was adopted unanimously, first by the committee and finally by the conference.

As to the "Plan for international commissions of inquiry," which emanated from the Russian delegation, our commission acknowledged its probable value and aided in elaborating it, but added to the safeguards against any possible abuse of it, as concerns the United States, by our declaration of July 25, to be mentioned hereafter.

The functions of such commission are strictly limited to the ascertainment of facts, and it is hoped that both by giving time for passions to subside and by substituting truth for rumor they may prove useful at times in settling international disputes. The commission of inquiry may also form a useful auxiliary both in the exercise of good offices and arbitration.

As to the next main subject, the most important of all under consideration by the third committee—the plan of a permanent court or tribunal—we were also able, in accordance with our instructions, to make contributions which we believe will aid in giving such a court dignity and efficiency.

On the assembling of the conference the feeling regarding the establishment of an actual permanent tribunal was evidently chaotic, with little or no apparent tendency to crystallize into any satisfactory institution. The very elaborate and in the main excellent proposals relating to procedure before special and temporary tribunals, which were presented by the Russian delegation, did not at first contemplate the establishment of any such permanent institution. The American

plan contained a carefully devised project for such a tribunal, which differed from that adopted mainly in contemplating a tribunal capable of meeting in full bench and permanent in the exercise of its functions, like the Supreme Court of the United States, instead of a court like the supreme court of the State of New York, which never sits as a whole, but whose members sit from time to time singly or in groups, as the occasion may demand. The court of arbitration provided for resembles in many features the supreme court of the State of New York and courts of unlimited original jurisdiction in various other States.

In order to make this system effective a council was established, composed of the diplomatic representatives of the various powers at The Hague, and presided over by the Netherlands minister of foreign affairs, which should have charge of the central office of the proposed court, of all administrative details, and of the means and machinery for speedily calling a proper bench of judges together and for setting the court in action. The reasons for our cooperation in making this plan will be found in the accompanying report. This compromise, involving the creation of a council and the selection of judges not to be in session save when actually required for international litigation, was proposed by Great Britain, and the feature of it which provided for the admission of the Netherlands, with its minister of foreign affairs as president of the council, was proposed by the American commission. The nations generally joined in perfecting other details. It may truthfully be called, therefore, the plan of the conference.

As to the revision of the decisions by the tribunal in case of the discovery of new facts, a subject on which our instructions were explicit, we were able, in the face of determined and prolonged opposition, to secure recognition in the code of procedure for the American view.

As regards the procedure to be adopted in the international court thus provided, the main features having been proposed by the Russian delegation, various modifications were made by other delegations, including our own. Our commission was careful to see that in this code there should be nothing which could put those conversant more especially with British and American common law and equity at a disadvantage. To sundry important features proposed by other powers our own commission gave hearty support. This was the case especially with article 27 proposed by France. It provides a means, through the agency of the powers generally, for calling the attention of any nations apparently drifting into war to the fact that the tribunal is ready to hear their contention. In this provision, broadly interpreted, we acquiesced, but endeavored to secure a clause limiting to suitable circumstances the "duty" imposed by the article. Great opposition being shown to such an amendment as unduly weakening the article, we decided to present a declaration that nothing contained in the convention should make it the duty of the United States to intrude in or become entangled with European political questions or matters of internal administration or to relinquish the traditional attitude of our nation toward purely American questions. This declaration was received without objection by the conference in full and open session.

As to the results thus obtained, as a whole, regarding arbitration, in view of all the circumstances and considerations revealed during the session of the conference, it is our opinion that the "Plan for the pacific settlement of international disputes," which was adopted by the conference, is better than that presented by any one nation. We

believe that, though it will doubtless be found imperfect and will require modification as time goes on, it will form a thoroughly practical beginning, it will produce valuable results from the outset, and it will be the germ out of which a better and better system will be gradually evolved.

As to the question between compulsory and voluntary arbitration it was clearly seen before we had been long in session that general compulsory arbitration of questions really likely to produce war could not be obtained; in fact that not one of the nations represented at the conference was willing to embark in it, so far as the more serious questions were concerned. Even as to the questions of less moment, it was found to be impossible to secure agreement, except upon a voluntary basis. We ourselves felt obliged to insist upon the omission from the Russian list of proposed subjects for compulsory arbitration international conventions relating to rivers, to interoceanic canals, and to monetary matters. Even as so amended, the plan was not acceptable to all. As a consequence the convention prepared by the conference provides for voluntary arbitration only. It remains for public opinion to make this system effective. As questions arise threatening resort to arms it may well be hoped that public opinion in the nations concerned, seeing in this great international court a means of escape from the increasing horrors of war, will insist more and more that the questions at issue be referred to it. As time goes on such reference will probably more and more seem to the world at large natural and normal, and we may hope that recourse to the tribunal will finally, in the great majority of serious differences between nations, become a regular means of avoiding the resort to arms. There will also be another effect worthy of consideration. This is the building up of a body of international law growing out of the decisions handed down by the judges. The procedure of the tribunal requires that reasons for such decisions shall be given, and these decisions and reasons can hardly fail to form additions of especial value to international jurisprudence.

It now remains to report the proceedings of the conference, as well as our own action, regarding the question of immunity of private property not contraband from seizure on the seas in time of war. From the very beginning of our sessions it was constantly insisted by leading representatives from nearly all the great powers that the action of the conference should be strictly limited to the matters specified in the Russian circular of December 30, 1898, and referred to in the invitation emanating from the Netherlands ministry of foreign affairs.

Many reasons for such a limitation were obvious. The members of the conference were from the beginning deluged with books, pamphlets, circulars, newspapers, broadsides, and private letters on a multitude of burning questions in various parts of the world. Considerable numbers of men and women devoted to urging these questions came to The Hague or gave notice of their coming.

It was very generally believed in the conference that the admission of any question not strictly within the limits proposed by the two circulars above mentioned would open the door to all these proposals above referred to, and that this might lead to endless confusion, to heated debate, perhaps even to the wreck of the conference, and consequently to a long postponement of the objects which both those who summoned it and those who entered it had directly in view.

It was at first held by very many members of the conference that

under the proper application of the above rule the proposal (?) made by the American commission could not be received. It required much and earnest argument on our part to change this view, but finally the memorial from our commission, which stated fully the historical and actual relation of the United States to the whole subject, was received, referred to the appropriate committee, and finally brought by it before the conference.

In that body it was listened to with close attention, and the speech of the chairman of the committee, who is the eminent president of the Venezuelan arbitration tribunal now in session at Paris, paid a hearty tribute to the historical adhesion of the United States to the great principle concerned. He then moved that the subject be referred to a future conference. This motion we accepted and seconded, taking occasion in doing so to restate the American doctrine on the subject, with its claims on all the nations represented at the conference. The commission was thus, as we believe, faithful to one of the oldest of American traditions, and was able at least to keep the subject before the world. The way is paved also for a future careful consideration of the subject in all its bearings and under more propitious circumstances.

The conclusions of the peace conference at The Hague took complete and definite shape in the final act laid before the delegates on July 29 for their signatures. This act embodied three conventions, three declarations, and seven resolutions, as follows:

First. A convention for the pacific settlement of international disputes. This was signed by sixteen delegations, as follows: Belgium, Denmark, Spain, United States of America, Mexico, France, Greece, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, Sweden and Norway, and Bulgaria. There were adjoined to the signatures of the United States delegation a reference to our declaration above referred to, made in open conference on July 25 and recorded in the proceedings of that day.

Second. A convention concerning the laws and customs of war on land. This was signed by fifteen delegations, as follows: Belgium, Denmark, Spain, Mexico, France, Greece, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, Sweden and Norway, and Bulgaria.

The United States delegation refers the matter to the Government at Washington, with the recommendation that it be there signed.

Third. A convention for the adaptation to maritime warfare of the principles of the Geneva conference of 1864. This was signed by fifteen delegations, as follows: Belgium, Denmark, Spain, Mexico, France, Greece, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, Sweden and Norway, and Bulgaria.

The United States representatives refer it, without recommendation, to the Government at Washington.

The three declarations were as follows:

First. A declaration prohibiting the throwing of projectiles and explosives from balloons or by other new analogous means, such prohibition to be effective during five years. This was signed by seventeen delegations, as follows: Belgium, Denmark, Spain, the United States of America, Mexico, France, Greece, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, Sweden and Norway, Turkey, and Bulgaria.

Second. A declaration prohibiting the use of projectiles having as their sole object the diffusion of asphyxiating or deleterious gases.

This, for reasons given in the accompanying documents, the American delegation did not sign. It was signed by sixteen delegations, as follows: Belgium, Denmark, Spain, Mexico, France, Greece, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Siam, Sweden and Norway, Turkey, and Bulgaria.

Third. A declaration prohibiting the use of bullets which expand or flatten easily in the human body, as illustrated by certain given details of construction. This, for technical reasons also fully stated in the report, the American delegation did not sign. It was signed by fifteen delegations, as follows: Belgium, Denmark, Spain, Mexico, France, Greece, Montenegro, the Netherlands, Persia, Roumania, Russia, Siam, Sweden and Norway, Turkey, and Bulgaria.

The seven resolutions were as follows:

First. A resolution that the limitation of the military charges which at present so oppress the world is greatly to be desired, for the increase of the material and moral welfare of mankind.

This ended the action of the conference in relation to matters considered by it upon their merits. In addition the conference passed the following resolutions, for all of which the United States delegation voted, referring various matters to the consideration of the powers or to future conference. Upon the last five resolutions a few powers abstained from voting.

The second resolution was as follows: The conference, taking into consideration the preliminary steps taken by the Federal Government of Switzerland for the revision of the convention of Geneva, expresses the wish that there should be in a short time a meeting of a special conference having for its object the revision of that convention.

This resolution was voted unanimously.

Third. The conference expresses the wish that the question of the rights and duties of neutrals should be considered at another conference.

Fourth. The conference expresses the wish that questions relative to muskets and marine artillery, such as have been examined by it, should be made the subject of study on the part of the governments with a view of arriving at an agreement concerning the adoption of new types and calibers.

Fifth. The conference expresses the wish that the governments, taking into account all the propositions made at this conference, should study the possibility of an agreement concerning the limitation of armed forces on land and sea and of war budgets.

Sixth. The conference expresses the wish that a proposition having for its object the declaration of immunity of private property in war on the high seas should be referred for examination to another conference.

Seventh. The conference expresses the wish that the proposition of regulating the question of bombardment of ports, cities, or villages by a naval force should be referred for examination to another conference.

It will be observed that the conditions upon which powers not represented at the conference can adhere to the convention for the peaceful regulation of international conflicts is to "form the subject of a later agreement between the contracting powers." This provision reflects the outcome of a three days' debate in the drafting committee as to whether this convention should be absolutely open or open only with the consent of the contracting powers. England and Italy strenuously supported the latter view. It soon became apparent that

under the guise of general propositions the committee was discussing political questions of great importance at least to certain powers. Under these circumstances the representatives of the United States took no part in the discussion, but supported by their vote the view that the convention, in its nature, involved reciprocal obligations; and also the conclusion that political questions had no place in the conference, and must be left to be decided by the competent authorities of the powers represented there.

It is to be regretted that this action excludes from immediate adherence to this convention our sister Republics of Central and South America, with whom the United States is already in similar relations by the Pan-American treaty. It is hoped that an arrangement will soon be made which will enable these States, if they so desire, to enter into the same relations as ourselves with the powers represented at the conference.

This report should not be closed without an acknowledgment of the great and constant courtesy of the Government of the Netherlands and all its representatives to the American commission as well as to all the members of the conference. In every way they have sought to aid us in our work and to make our stay agreeable to us. The accommodations they have provided for the conference have enhanced its dignity and increased its efficiency.

It may also be well to put on record that from the entire conference, without exception, we have constantly received marks of kindness, and although so many nations with different interests were represented, there has not been in any session, whether of the conference or of any of the committees or subcommittees anything other than calm and courteous debate.

The text of the final act and of the various conventions and declarations referred to therein is appended to this report.

All of which is most respectfully submitted.

ANDREW D. WHITE, *President.*

SETH LOW.

STANFORD NEWEL.

A. T. MAHAN.

WILLIAM CROZIER.

FREDERICK W. HOLLS, *Secretary.*

[Translation.]

#### CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES.

His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom; the President of the United States of America; the President of the United States of Mexico; the President of the French Republic; His Majesty the King of the Hellenes; His Highness the Prince Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and the Algarves; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; and His Royal Highness the Prince of Bulgaria. animated by a strong desire to concert for the maintenance of the general peace;

Resolved to second by their best efforts the friendly settlement of international disputes;

Recognizing the solidarity which unites the members of the society of civilized nations;

Desirous of extending the empire of law, and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Court of Arbitration, accessible



to all, in the midst of the independent Powers, will contribute effectively to this result:

Having regard to the advantages attending the general and regular organization of arbitral procedure;

Sharing the opinion of the august Initiator of the International Peace Conference that it is expedient to record in an international Agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous of concluding a Convention to this effect, have appointed as their Plenipotentiaries, to-wit:—

His Majesty the King of the Belgians, M. Auguste Beernaert, His Minister of State, President of the Chamber of Representatives; the Count de Grelle Rogier, his Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Majesty the Queen of the Netherlands; and the Chevalier Descamps, Senator;

His Majesty the King of Denmark, the Chamberlain Fr. E. de Bille, his Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Britannic Majesty;

His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom, the Duke de Tetuan, ex-Minister for Foreign Affairs; M. W. Ramirez de Villa Urrutia, his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the King of the Belgians; M. Arturo de Baguer, his Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Majesty the Queen of the Netherlands;

The President of the United States of America, Andrew D. White, Ambassador at the Court of His Majesty the Emperor of Germany; the Honourable Seth Low, President of the Columbia University at New York; Stanford Newel, Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Majesty the Queen of the Netherlands; Captain Alfred T. Mahan; and William Crozier, Captain of Artillery;

The President of the United States of Mexico, M. de Mier, Envoy Extraordinary and Minister Plenipotentiary to the French Republic; and M. J. Zenil, Minister Resident at the Court of His Majesty the King of the Belgians;

The President of the French Republic, M. Léon Bourgeois ex-President of the Council, ex-Minister for Foreign Affairs, Member of the Chamber of Deputies; M. Georges Bihourd, Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Majesty the Queen of the Netherlands; and the Baron d'Estournelles de Constant, Minister Plenipotentiary, Member of the Chamber of Deputies;

His Majesty the King of the Hellenes, M. N. Delvanni, Envoy Extraordinary and Minister Plenipotentiary to the French Republic, ex-President of the Council, ex-Minister for Foreign Affairs;

His Highness the Prince of Montenegro, M. de Staal, Privy Councillor, Russian Ambassador at the Court of Her Britannic Majesty;

Her Majesty the Queen of the Netherlands, the Jonkheer A. P. C. van Karnebeek, ex-Minister for Foreign Affairs, Member of the Second Chamber of the States-General; General J. C. C. den Beer Poortugael, ex-Minister for War, Member of the Council of State; M. T. M. C. Asser, Member of the Council of State; and M. E. N. Rahusen, Member of the First Chamber of the States-General;

His Imperial Majesty the Shah of Persia, Aide-de-Camp, General Mirza Riza Khan (Arfa-ud-Dowleh), his Envoy Extraordinary and Minister Plenipotentiary at the Courts of His Majesty the Emperor of All the Russias, and His Majesty the King of Sweden and Norway;

His Majesty the King of Portugal and the Algarves, the Count de Macedo, ex-Minister for the Marine and Colonies, Peer of the Kingdom, his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Most Catholic Majesty; M. d'Ornellas Vasconcellos, Peer of the Kingdom, his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the Emperor of All the Russias; and the Count de Sélor, his Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Majesty the Queen of the Netherlands;

His Majesty the King of Roumania, M. Alexandre Beldiman, his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the Emperor of Germany; and M. Jean N. Papiniu, his Envoy Extraordinary and Minister Plenipotentiary at the Court of Her Majesty the Queen of the Netherlands;

His Majesty the Emperor of All the Russias, M. de Staal, Privy Councillor, his Ambassador at the Court of Her Britannic Majesty; M. de Martens, Privy Councillor; M. de Basily, Councillor of State, Chamberlain to His Majesty the Emperor;

His Majesty the King of Siam, M. Phya Suriya Nuvatr, his Envoy Extraordinary and Minister Plenipotentiary to the French Republic; and M. Phya Visudha, his Envoy Extraordinary and Minister Plenipotentiary at the Courts of Her Majesty the Queen of the Netherlands, and of Her Britannic Majesty;

His Majesty the King of Sweden and Norway, Baron de Bildt, his Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the King of Italy;

His Royal Highness the Prince of Bulgaria, Dr. Dimitri I. Stancioff, his Diplomatic Agent to the Imperial Russian Government; and Major Christo Hessapchieff, of the Bulgarian Staff, Military Attaché in Serbia;

Who, after communication of their full powers, found in good and due form have agreed on the following provisions:—

#### TITLE I.—ON THE MAINTENANCE OF THE GENERAL PEACE.

##### ARTICLE I.

With a view to obviating, as far as possible, recourse to force in the relations between States, the Signatory Powers agree to use their best efforts to insure the pacific settlement of international differences.

#### TITLE II.—ON GOOD OFFICES AND MEDIATION.

##### ARTICLE II.

In case of serious disagreement or conflict, before an appeal to arms, the Signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

##### ARTICLE III.

Independently of this recourse, the Signatory Powers recommend that one or more Powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act.

##### ARTICLE IV.

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

##### ARTICLE V.

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

##### ARTICLE VI.

Good offices and mediation, either at the request of the parties at variance, or on the initiative of Powers strangers to the dispute, have exclusively the character of advice and never have binding force.

##### ARTICLE VII.

The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If mediation occurs after the commencement of hostilities it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

##### ARTICLE VIII.

The Signatory Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:—

In case of a serious difference endangering the peace, the States at variance choose respectively a Power, to whom they intrust the mission of entering into

direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, can not exceed thirty days, the States in conflict cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, who must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these powers are charged with the joint task of taking advantage of any opportunity to restore peace.

### TITLE III.—ON INTERNATIONAL COMMISSIONS OF INQUIRY.

#### ARTICLE IX.

In differences of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the Signatory Powers recommend that the parties, who have not been able to come to an agreement by means of diplomacy, should as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these differences by elucidating the facts by means of an impartial and conscientious investigation.

#### ARTICLE X.

The International Commissions of Inquiry are constituted by special agreement between the parties in conflict.

The Convention for an inquiry defines the facts to be examined and the extent of the Commissioners' powers.

It settles the procedure.

On the inquiry both sides must be heard.

The form and the periods to be observed, if not stated in the inquiry Convention, are decided by the Commission itself.

#### ARTICLE XI.

The International Commissions of Inquiry are formed, unless otherwise stipulated, in the manner fixed by Article XXXII of the present convention.

#### ARTICLE XII.

The powers in dispute engage to supply the International Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

#### ARTICLE XIII.

The International Commission of Inquiry communicates its Report to the conflicting Powers, signed by all the members of the Commission.

#### ARTICLE XIV.

The Report of the International Commission of Inquiry is limited to a statement of facts, and has in no way the character of an Arbitral Award. It leaves the conflicting Powers entire freedom as to the effect to be given to this statement.

### TITLE IV.—ON INTERNATIONAL ARBITRATION.

#### CHAPTER I.—*On the System of Arbitration.*

#### ARTICLE XV.

International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law.

#### ARTICLE XVI.

In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

## ARTICLE XVII.

The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

## ARTICLE XVIII.

The Arbitration Convention implies the engagement to submit loyally to the Award.

## ARTICLE XIX.

Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Signatory Powers, these Powers reserve to themselves the right of concluding, either before the ratification of the present Act or later, new Agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—*On the Permanent Court of Arbitration.*

## ARTICLE XX.

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the Signatory Powers undertake to organize a permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the Rules of Procedure inserted in the present Convention.

## ARTICLE XXI.

The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

## ARTICLE XXII.

An International Bureau, established at the Hague, serves as record office for the Court.

This Bureau is the channel for communications relative to the meetings of the Court.

It has the custody of the archives and conducts all the administrative business.

The Signatory Powers undertake to communicate to the International Bureau at the Hague a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special Tribunals.

They undertake also to communicate to the Bureau the Laws, Regulations, and documents eventually showing the execution of the awards given by the Court.

## ARTICLE XXIII.

Within the three months following its ratification of the present Act, each Signatory Power shall select four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrators.

The persons thus selected shall be inscribed, as members of the Court, in a list which shall be notified by the Bureau to all the Signatory Powers.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Signatory Powers.

Two or more Powers may agree on the selection in common of one or more Members.

The same person can be selected by different Powers.

The Members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place shall be filled in accordance with the method of his appointment.

## ARTICLE XXIV.

When the Signatory Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the Arbitrators called

upon to form the competent Tribunal to decide this difference, must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:—

Each party appoints two Arbitrators, and these together choose an Umpire.

If the votes are equal, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court and the names of the Arbitrators.

The Tribunal of Arbitration assembles on the date fixed by the parties.

The Members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.

#### ARTICLE XXV.

The Tribunal of Arbitration has its ordinary seat at the Hague.

Except in cases of necessity, the place of session can only be altered by the Tribunal with the assent of the parties.

#### ARTICLE XXVI.

The International Bureau at the Hague is authorized to place its premises and its staff at the disposal of the Signatory Powers for the operations of any special Board of Arbitration.

The jurisdiction of the Permanent Court, may, within the conditions laid down in the Regulations, be extended to disputes between non-Signatory Powers, or between Signatory Powers and non-Signatory Powers, if the parties are agreed on recourse to this Tribunal.

#### ARTICLE XXVII.

The Signatory Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

#### ARTICLE XXVIII.

A Permanent Administrative Council, composed of the Diplomatic Representatives of the Signatory Powers accredited to the Hague and of the Netherland Minister for Foreign Affairs, who will act as President, shall be instituted in this town as soon as possible after the ratification of the present Act by at least nine Powers.

This Council will be charged with the establishment and organization of the International Bureau, which will be under its direction and control.

It will notify to the Powers the constitution of the Court and will provide for its installation.

It will settle its Rules of Procedure and all other necessary Regulations.

It will decide all questions of administration which may arise with regard to the operations of the Court.

It will have entire control over the appointment, suspension or dismissal of the officials and employees of the Bureau.

It will fix the payments and salaries, and control the general expenditure.

At meetings duly summoned the presence of five members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the Signatory Powers without delay the Regulations adopted by it. It furnishes them with an annual Report on the labours of the Court, the working of the administration, and the expenses.

#### ARTICLE XXIX.

The expenses of the Bureau shall be borne by the Signatory Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

CHAPTER III.—*On Arbitral Procedure.*

## ARTICLE XXX.

With a view to encourage the development of arbitration, the Signatory Powers have agreed on the following Rules which shall be applicable to arbitral procedure, unless other Rules have been agreed on by the parties.

## ARTICLE XXXI.

The Powers who have recourse to arbitration sign a special Act ("Compromis"), in which the subject of the difference is clearly defined, as well as the extent of the Arbitrators' powers. This Act implies the undertaking of the parties to submit loyally to the award.

## ARTICLE XXXII.

The duties of Arbitrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Act.

Failing the constitution of the Tribunal by direct agreement between the parties, the following course shall be pursued:

Each party appoints two arbitrators, and these latter together choose an Umpire. In case of equal voting, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If no agreement is arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

## ARTICLE XXXIII.

When a Sovereign or the Chief of a State is chosen as Arbitrator, the arbitral procedure is settled by him.

## ARTICLE XXXIV.

The Umpire is by right President of the Tribunal.

When the Tribunal does not include an Umpire, it appoints its own President.

## ARTICLE XXXV.

In case of the death, retirement, or disability from any cause of one of the Arbitrators, his place shall be filled in accordance with the method of his appointment.

## ARTICLE XXXVI.

The Tribunal's place of session is selected by the parties. Failing this selection the Tribunal sits at the Hague.

The place thus fixed cannot, except in case of necessity, be changed by the Tribunal without the assent of the parties.

## ARTICLE XXXVII.

The parties have the right to appoint delegates or special agents to attend the Tribunal, for the purpose of serving as intermediaries between them and the Tribunal.

They are further authorized to retain, for the defense of their rights and interests before the Tribunal, counsel or advocates appointed by them for this purpose.

## ARTICLE XXXVIII.

The Tribunal decides on the choice of languages to be used by itself, and to be authorized for use before it.

## ARTICLE XXXIX.

As a general rule the arbitral procedure comprises two distinct phases; preliminary examination and discussion.

Preliminary examination consists in the communication by the respective agents to the members of the Tribunal and to the opposite party of all printed or written Acts and of all documents containing the arguments invoked in the case. This

communication shall be made in the form and within the periods fixed by the Tribunal in accordance with Article XLIX.

Discussion consists in the oral development before the Tribunal of the arguments of the parties.

#### ARTICLE XL.

Every document produced by one party must be communicated to the other party.

#### ARTICLE XLI.

The discussions are under the direction of the President.

They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in the *procès-verbaux* drawn up by the Secretaries appointed by the President. These *procès-verbaux* alone have an authentic character.

#### ARTICLE XLII.

When the preliminary examination is concluded, the Tribunal has the right to refuse discussion of all fresh Acts or documents which one party may desire to submit to it without the consent of the other party.

#### ARTICLE XLIII.

The Tribunal is free to take into consideration fresh Acts or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these Acts or documents, but is obliged to make them known to the opposite party.

#### ARTICLE XLIV.

The Tribunal can, besides, require from the agents of the parties the production of all Acts, and can demand all necessary explanations. In case of refusal, the Tribunal takes note of it.

#### ARTICLE XLV.

The agents and counsel of the parties are authorized to present orally to the Tribunal all the arguments they may think expedient in defence of their case.

#### ARTICLE XLVI.

They have the right to raise objections and points.

The decisions of the Tribunal on those points are final, and cannot form the subject of any subsequent discussion.

#### ARTICLE XLVII.

The members of the Tribunal have the right to put questions to the agents and counsel of the parties, and to demand explanations from them on doubtful points.

Neither the questions put nor the remarks made by members of the Tribunal during the discussions can be regarded as an expression of opinion by the Tribunal in general, or by its members in particular.

#### ARTICLE XLVIII.

The Tribunal is authorized to declare its competence in interpreting the "Compromis" as well as the other Treaties which may be invoked in the case, and in applying the principles of international law.

#### ARTICLE XLIX.

The Tribunal has the right to issue Rules of Procedure for the conduct of the case, to decide the forms and periods within which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

#### ARTICLE L.

When the agents and counsel of the parties have submitted all explanations and evidence in support of their case, the President pronounces the discussion closed.

## ARTICLE LI.

The deliberations of the Tribunal take place in private.  
Every decision is taken by a majority of members of the Tribunal.  
The refusal of a member to vote must be recorded in the *procès-verbal*.

## ARTICLE LII.

The award, given by a majority of votes, is accompanied by a statement of reasons. It is drawn up in writing and signed by each member of the Tribunal.  
Those members who are in the minority may record their dissent when signing.

## ARTICLE LIII.

The award is read out at a public meeting of the Tribunal, the agents and counsel of the parties being present, or duly summoned to attend.

## ARTICLE LIV.

The award, duly pronounced and notified to the agents of the parties at variance, puts an end to the dispute definitely and without appeal.

## ARTICLE LV.

The parties can reserve in the "Compromis" the right to demand the revision of the award.

In this case, and unless there be an agreement to the contrary, the demand must be addressed to the Tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence on the award, and which, at the time the discussion was closed, was unknown to the Tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognizing in it the character described in the foregoing paragraph, and declaring the demand admissible on this ground.

The "Compromis" fixes the period within which the demand for revision must be made.

## ARTICLE LVI.

The award is only binding on the parties who concluded the "Compromis."

When there is a question of interpreting a Convention to which Powers other than those concerned in the dispute are parties, the latter notify to the former the "Compromis" they have concluded. Each of these Powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the award is equally binding on them.

## ARTICLE LVII.

Each party pays its own expenses and an equal share of those of the Tribunal.

## GENERAL PROVISIONS.

## ARTICLE LVIII.

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the Powers who were represented at the International Peace Conference at the Hague.

## ARTICLE LIX.

The non-Signatory Powers who were represented at the International Peace Conference can adhere to the present Convention. For this purpose they must make known their adhesion to the Contracting Powers by a written notification addressed to the Netherlands Government, and communicated by it to all the other Contracting Powers.

## ARTICLE LX.

The conditions on which the Powers who were not represented at the International Peace Conference can adhere to the present Convention shall form the subject of a subsequent Agreement among the Contracting Powers.



## ARTICLE LXI.

In the event of one of the High Contracting Parties denouncing the present Convention, this denunciation would not take effect until a year after its notification made in writing to the Netherland Government, and by it communicated at once to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In faith of which the Plenipotentiaries have signed the present Convention and affixed their seals to it.

Done at the Hague, the 29th July, 1899, in a single copy, which shall remain in the archives of the Netherland Government, and copies of it, duly certified, be sent through the diplomatic channel to the Contracting Powers.

For Belgium:  
(Signed)

A. BEERNAERT.  
Comte DE GRELLÉ ROGIER.  
CHR. DESCHAMPS.

For Denmark:  
(Signed)

F. BILLE.

For Spain:  
(Signed)

El Duque DE TETUAN.  
W. R. DE VILLA URRUTIA.  
ARTURO DE BAGUER.

For the United States of America:  
(Signed)

ANDREW D. WHITE.  
SETH LOW.  
STANFORD NEWEL.  
A. T. MAHAN.  
WILLIAM CROZIER.

Under reserve of the declaration made at the plenary sitting of the Conference on the 25th July, 1899.

For the United States of Mexico:  
(Signed)

A. DE MIER.  
J. ZENIL.

For the French Republic:  
(Signed)

LÉON BOURGEOIS.  
G. BIHOUD.  
D'ESTOURNELLES DE CONSTANT.

For Greece:  
(Signed)

N. DELYANNI.

For Montenegro:  
(Signed)

STAAL.

For the Netherlands:  
(Signed)

VAN KARNEBEEK.  
DEN BEER POORTUGAEL.  
T. M. C. ASSER.  
E. N. RAHUSEN.

For Persia:  
(Signed)

MIRZA RIZA KHAN, Arfa-ud-Dowleh.

For Portugal:  
(Signed)

Conde DE MACEDO.  
AGOSTINHO D'ORNELLAS DE VASCONCELLOS.  
Conde DE SÉLIR.

For Roumania:  
(Signed)

A. BELDIMAN.  
J. N. PAPINIU.

For Russia:  
(Signed)

STAAL.

A. BASILY.

For Siam:  
(Signed)

PHYA SURIYA NUVATR.  
VISUDDHA.

For the United Kingdoms of Sweden and Norway:  
(Signed)

BILDT.

For Bulgaria:  
(Signed)

STANCIOFF.  
Major HESSAPTCHIEFF.

[Translation.]

## DECLARATION.

The undersigned, Plenipotentiaries of the Powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that:

The Contracting Powers agree to prohibit, for a term of five years, the launching of projectiles and explosives from balloons, or by other new methods of similar nature.

The present Declaration is only binding on the Contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

A *procès verbal* shall be drawn up on the receipt of each ratification, of which a copy, duly certified, shall be sent through the diplomatic channel to all the Contracting Powers.

The non-Signatory Powers may adhere to the present Declaration. For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Netherland Government, and communicated by it to all the other Contracting Powers.

In the event of one of the High Contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and by it forthwith communicated to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In faith of which the Plenipotentiaries have signed the present Declaration, and affixed their seals thereto.

Done at the Hague the 29th July, 1899, in a single copy, which shall be kept in the archives of the Netherland Government, and of which copies, duly certified, shall be sent through the diplomatic channel to the Contracting Powers.

For Belgium:  
(Signed)

A. BEERNAERT.  
Comte DE GRELLE ROGIER.  
CHR. DESCAMPS.

For Denmark:  
(Signed)

F. BILLE.

For Spain:  
(Signed)

El Duque DE TETUAN.  
W. R. DE VILLA URRUTIA.  
ARTURO DE BAGUER.

For the United States of America:  
(Signed)

ANDREW D. WHITE.  
SETH LOW.  
STANFORD NEWEL.  
A. T. MAHAN.  
WILLIAM CROZIER.

For the United States of Mexico:  
(Signed)

A. DE MIER.  
J. ZENIL.

For the French Republic:  
(Signed)

LÉON BOURGEOIS.  
G. BIHOUD.  
D'ESTOURNELLES DE CONSTANT.

For Greece:  
(Signed)

N. DELYANNI.

For Montenegro:  
(Signed)

STAAL.

For the Netherlands:  
(Signed)

VAN KARNEBEEK.  
DEN BEER POORTUGAEL.  
T. M. C. ASSER.  
E. N. RAHUSEN.

For Persia: (Signed)	MIRZA RIZA KHAN, Arfa-ud-Dowleh.
For Portugal: (Signed)	Conde DE MACEDO. AGOSTINHO D'ORNELLOS DE VASCONCELLOS. Conde DE SÉLIR.
For Roumania: (Signed)	A. BELDIMAN. J. N. PAPINIU.
For Russia: (Signed)	STAAL.
	A. BASILY.
For Siam: (Signed)	PHYA SURIYA NUVATR. VISUDDHA.
For the United Kingdoms of Sweden and Norway: (Signed)	BILDT.
For Turkey: (Signed)	TURKHAN. M. NOURY. ABDULLAH. R. MEHEMED.
For Bulgaria: (Signed)	D. STANCIOFF. Major HESSAPTCHIEFF.

[Translation.]

CONVENTION FOR THE ADAPTATION TO MARITIME WARFARE OF THE PRINCIPLES  
OF THE GENEVA CONVENTION OF AUGUST 22, 1864.

His Majesty the Emperor of Germany, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the Emperor of China; His Majesty the King of Denmark; His Majesty the King of Spain and in his Name Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; the President of the United Mexican States; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxembourg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, etc.; His Majesty the King of Roumania; His Majesty the Emperor of all the Russias; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; the Swiss Federal Council; His Majesty the Emperor of the Ottomans and His Royal Highness the Prince of Bulgaria.

Alike animated by the desire to diminish, as far as depends on them the evils inseparable from warfare, and wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the 22nd August, 1864, have decided to conclude a convention to this effect:

They have, in consequence, appointed as their Plenipotentiaries, to wit:

His Majesty the Emperor of Germany, King of Prussia, His Excellency Count Munster, Prince of Derneburg, His Ambassador at Paris.

His Majesty the Emperor of Austria, King of Bohemia etc. and Apostolic King of Hungary: His Excellency Count R. de Welser-heimb, His Ambassador Extraordinary and Plenipotentiary; Mr. Alexander Okolicsanyi d'Okolicsna, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Belgians: His Excellency Mr. Auguste Beernaert, His Minister of State, President of the Chamber of Deputies; Count de Grelle Rogier, His Envoy Extraordinary and Minister Plenipotentiary at The Hague; the Chevalier Descamps, Senator.

His Majesty the Emperor of China: Mr. Yang Yu, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg.

His Majesty the King of Denmark: His Chamberlain Fr. E. de Bille, His Envoy Extraordinary and Minister Plenipotentiary at London.

His Majesty the King of Spain and in His Name, Her Majesty the Queen Regent of the Kingdom: His Excellency the Duke of Tetuan, formerly Minister for Foreign Affairs; M. W. Ramirez de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary at Brussels; M. Arthur de Baguer, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the United States of America: Mr. Stanford Newel, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the United Mexican States: Mr. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Zenil, Minister Resident at Brussels.

The President of the French Republic: M. Léon Bourgeois formerly President of the Council, ex-Minister of Foreign Affairs, Member of the Chamber of Deputies; M. Georges Bihourd, Envoy Extraordinary and Minister plenipotentiary at the Hague; Baron d'Estournelles de Constant, Minister Plenipotentiary, Member of the Chamber of Deputies.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: Sir Henry Howard, Her Envoy Extraordinary and Minister Plenipotentiary at the Hague.

His Majesty the King of the Hellenes: Mr. N. Delyanni, former President of the Council, ex-Minister for Foreign Affairs, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Italy: His Excellency Count Nigra, His Ambassador at Vienna, Senator of the Kingdom; Count A. Zannini, His Envoy Extraordinary and Minister Plenipotentiary at The Hague; Commander Guido Pompilj, Deputy in the Italian Parliament.

His Majesty the Emperor of Japan: Mr. I. Motono, His Envoy Extraordinary and Minister Plenipotentiary at Brussels.

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau: His Excellency Mr. Eyschen, His Minister of State, President of the Grand Ducal Government.

His Highness the Prince of Montenegro: His Excellency Mr. de Stall, Privy Councillor, Ambassador of Russia, London.

Her Majesty the Queen of the Netherlands: Jonkheer A. P. C. van Karnebeek, formerly Minister for Foreign Affairs, Member of the Second Chamber of the States General; General J. C. C. den Beer Poortugael, formerly Minister of War, Member of the Council of State; Mr. T. M. C. Asser, Member of the Council of State; Mr. E. N. Rahusen, Member of the First Chamber of the States General.

His Imperial Majesty the Shah of Persia: His Aid-de-camp General Mirza Riza Khan, Arfa-ud-Dovleh, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and Stockholm.

His Majesty the King of Portugal and of the Algarves, etc.: Count Macedo, Peer of the Kingdom, formerly Minister of the Navy and of the Colonies, His Envoy Extraordinary and Minister Plenipotentiary at Madrid; Mr. d'Ornellas and Vasconcellos, Peer of the Kingdom, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg; Count de Selir, His Envoy Extraordinary and Minister Plenipotentiary at the Hague.

His Majesty the King of Roumania: Mr. Alexander Beldiman, His Envoy Extraordinary and Minister Plenipotentiary at Berlin; Mr. Jean N. Papiniu, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the Emperor of all the Russias: His Excellency Mr. de Staal, Privy Councillor, His Ambassador at London; Mr. de Martens, Permanent Member of the Council of the Imperial Ministry of Foreign Affairs, His Privy Councillor; Mr. de Basily, His Councillor of State, Chamberlain, Director of the First Department of the Imperial Ministry of Foreign Affairs.

His Majesty the King of Servia: Mr. Miyatovitch, His Envoy Extraordinary and Minister Plenipotentiary at London and at The Hague.

His Majesty the King of Siam: M. Phya Suriya Nuvatr, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Paris; M. Phya Visudha Suriyasakti, His Envoy Extraordinary and Minister Plenipotentiary at the Hague and at London.

His Majesty the King of Sweden and Norway: Baron de Bildt, His Envoy Extraordinary and Minister Plenipotentiary at Rome.

The Swiss Federal Council: Dr. Arnold Roth, Envoy Extraordinary and Minister Plenipotentiary at Berlin.

His Majesty the Emperor of the Ottomans: His Excellency Turkhan Pasha, formerly Minister for Foreign Affairs, Member of His Council of State; Noury Bey, Secretary-General in the Ministry for Foreign Affairs.

His Royal Highness the Prince of Bulgaria: Dr. Dimitri Stancioff, Diplomatic Agent at St. Petersburg; Major Christo Hessaptchieff, Military Attaché at Belgrade;

Who, after communication of their full powers, found in good and due form, have agreed on the following provisions:

#### ARTICLE I.

Military hospital ships, that is to say, ships constructed or assigned by States specially and solely for the purpose of assisting the wounded, sick or shipwrecked, and the names of which shall have been communicated to the belligerent Powers at the beginning or during the course of hostilities, and in any case before they are employed, shall be respected and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as men-of-war as regards their stay in a neutral port.

#### ARTICLE II.

Hospital ships, equipped wholly or in part at the cost of private individuals or officially recognized relief Societies, shall likewise be respected and exempt from capture, provided the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships should be furnished with a certificate from the competent authorities, declaring that they had been under their control while fitting out and on final departure.

#### ARTICLE III.

Hospital-ships, equipped wholly or in part at the cost of private individuals or officially recognized Societies of neutral countries, shall be respected and exempt from capture, if the neutral Power to whom they belong has given them an official commission and notified their names to the belligerent powers at the commencement of or during hostilities, and in any case before they are employed.

#### ARTICLE IV.

The ships mentioned in Articles I, II, and III shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents independently of their nationality.

The Governments engage not to use these ships for any military purpose.

These ships must not in any way hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents will have the right to control and visit them; they can refuse to help them, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible the belligerents shall inscribe in the sailing papers of the hospital-ships the orders they give them.

#### ARTICLE V.

The military hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a half in breadth.

The ships mentioned in Articles II and III shall be distinguished by being painted white outside with a horizontal band of red about a metre and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital ships shall make themselves known by hoisting, together with their national flag, the white flag with a red cross provided by the Geneva Convention.

#### ARTICLE VI.

Neutral merchantmen, yachts, or vessels, having, or taking on board, sick, wounded, or shipwrecked of the belligerents, cannot be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed.

#### ARTICLE VII.

The religious, medical, or hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave when the Commander-in-Chief considers it possible.

The belligerents must guarantee to the staff that has fallen into their hands the enjoyment of their salaries intact.

## ARTICLE VIII.

Sailors and soldiers who are taken on board when sick or wounded, to whatever nation they belong, shall be protected and looked after by the captors.

## ARTICLE IX.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the hands of the other, are prisoners of war. The captor must decide, according to circumstances, if it is best to keep them or send them to a port of his own country, to a neutral port, or even to a hostile port. In the last case, prisoners thus repatriated cannot serve as long as the war lasts.

## ARTICLE X.

The shipwrecked, wounded, or sick, who are landed at a neutral port with the consent of the local authorities, must, failing a contrary agreement between the neutral State and the belligerents, be guarded by the neutral State, so that they cannot again take part in the military operations.

The expenses of entertainment and interment shall be borne by the State to which the shipwrecked, wounded, or sick belong.

## ARTICLE XI.

The rules contained in the above Articles are binding only on the Contracting Powers, in case of War between two or more of them.

The said rules shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

## ARTICLE XII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

On the receipt of each ratification a *procès-verbal* shall be drawn up, a copy of which, duly certified, shall be sent through the diplomatic channel to all the Contracting Powers.

## ARTICLE XIII.

The non-Signatory Powers who accepted the Geneva Convention of the 22nd August, 1864, are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other Contracting Powers.

## ARTICLE XIV.

In the event of one of the High Contracting Parties denouncing the present Convention, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

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

Done at The Hague the 29th July, 1899, in single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which duly certified, shall be sent through the diplomatic channel to the Contracting Powers.

For Germany:

(Signed) MUNSTER DERNEBURG.

(Under reserve of Article X.)

For Austria-Hungary:

(Signed) WELSERSHEIMB.  
OKOLICSANYI.

For Belgium:

(Signed) A. BEERNAERT.  
CTE. DE GRELLE ROGIER.  
CHR. DESCAMPS.

- For China:  
(Signed) YANG YU.
- For Denmark:  
(Signed) F. BILLE.
- For Spain:  
(Signed) EL DUQUE DE TETUAN.  
W. R. DE VILLA URRUTIA.  
ARTURO DE BAGUER.
- For the United States of America:  
(Signed) STANFORD NEWEL.
- For the United Mexican States:  
(Signed) A. DE MIER.  
J. ZENIL.
- For France:  
(Signed) LEON BOURGEOIS.  
G. BIHOUD.  
D'ESTOURNELLES DE CONSTANT.
- For Great Britain and Ireland:  
(Signed) HENRY HOWARD.
- For Greece:  
(Signed) N. DELYANNI.
- For Italy:  
(Signed) NIGRA.  
A. ZANNINI.  
G. POMPILJ.
- For Japan:  
(Signed) I. MOTONO.
- For Luxemburg:  
(Signed) EYSCHEN.
- For Montenegro:  
(Signed) STAAL.
- For the Netherlands:  
(Signed) V. KARNEBEEK.  
DEN BEER POORTUGAEL.  
T. M. C. ASSER.  
E. N. RAHUSEN.
- For Persia:  
(Signed) MIRZA RIZA KHAN, Arf-ud-Dovleh.
- For Portugal:  
(Signed) CONDE DE MACEDO.  
AGOSTINHO D'ORNELLAS DE VASCONCELLOS.  
CONDE DE SELIR.
- For Roumania:  
(Signed) A. BELDIMAN.  
J. N. PAPINIU.
- For Russia:  
(Signed) STAAL.  
MARTENS.  
A. BASILY.
- For Servia:  
(Signed) CHEDO MIYATOVITCH.
- For Siam:  
(Signed) PHYA SURIYA NUVATR.  
VISUDDHA.
- For the United Kingdoms of Sweden and Norway:  
(Signed) BILDT.
- For Switzerland:  
(Signed) ROTH.
- For Turkey:  
(Signed) TURKHAN.  
MEHEMED NOURY.
- For Bulgaria:  
(Signed) D. STANCIOFF.  
MAJOR HESSAPTCHIEFF.

(Under reserve of Article X.)

(Under reserve of Article X.)

(Under reserve of Article X.)

[Translation.]

## CONVENTION WITH RESPECT TO THE LAWS AND CUSTOMS OF WAR ON LAND.

His Majesty the Emperor of Germany, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain and in His Name Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; the President of the United Mexican States; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves etc.; His Majesty the King of Roumania; His Majesty the Emperor of all the Russias; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; His Majesty the Emperor of the Ottomans and His Royal Highness the Prince of Bulgaria.

Considering that, while seeking means to preserve peace and prevent armed conflicts among nations, it is likewise necessary to have regard to cases where an appeal to arms may be caused by event which their solicitude could not avert;

Animated by the desire to serve, even in this extreme hypothesis, the interests of humanity and the ever increasing requirements of civilization;

Thinking it important, with this object, to revise the laws and general customs of war, either with the view of defining them more precisely, or of laying down certain limits for the purpose of modifying their severity as far as possible;

Inspired by these views which are enjoined at the present day, as they were twenty-five years ago at the time of the Brussels Conference in 1874, by a wise and generous foresight;

Have, in this spirit, adopted a great number of provisions, the object of which is to define and govern the usages of war on land.

In view of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war so far as military necessities permit, are destined to serve as general rules of conduct for belligerents in their relations with each other and with populations.

It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice.

On the other hand, it could not be intended by the High Contracting Parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of the military Commanders.

Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience;

They declare that it is in this sense especially that Articles I and II of the Regulations adopted must be understood;

The High Contracting Parties, desiring to conclude a Convention to this effect, have appointed as their Plenipotentiaries, to-wit:—

His Majesty the Emperor of Germany, King of Prussia: His Excellency Count de Munster, Prince of Derneburg, His Ambassador at Paris.

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary: His Excellency Count R. de Welsersheimb, His Ambassador Extraordinary and Plenipotentiary; Mr. Alexander Okolicsanyi d'Okolicsna, His Envoy Extraordinary and Minister Plenipotentiary at the Hague.

His Majesty the King of the Belgians: His Excellency Mr. Auguste Beernaert, His Minister of State, President of the Chamber of Representatives; Count de Grelle Rogier, His Envoy Extraordinary and Minister Plenipotentiary at the Hague; the Chevalier Descamps, Senator.

His Majesty the King of Denmark: His Chamberlain Fr. E. de Bille, His Envoy Extraordinary and Minister Plenipotentiary at London.

His Majesty the King of Spain and in His Name, Her Majesty the Queen Regent of the Kingdom: His Excellency the Duke of Tetuan, former Minister for Foreign Affairs; Mr. W. Ramirez de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary at Brussels; Mr. Arthur de Baguer, His Envoy Extraordinary and Minister Plenipotentiary at the Hague.

The President of the United States of America: Mr. Stanford Newel, Envoy Extraordinary and Minister Plenipotentiary at the Hague.



The President of the United Mexican States: Mr. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Zenil, Minister Resident at Brussels. The President of the French Republic: Mr. Léon Bourgeois, former President of the Council, former Minister for Foreign Affairs, Member of the Chamber of Deputies; Mr. George Bihourd, Envoy Extraordinary and Minister Plenipotentiary at the Hague; the Baron d'Estournelles de Constant, Minister Plenipotentiary, Member of the Chamber of Deputies.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: His Excellency the Right Honorable Baron Pauncefoot of Preston, Member of Her Majesty's Privy Council, Her Ambassador Extraordinary and Plenipotentiary at Washington; Sir Henry Howard, Her Envoy Extraordinary and Minister Plenipotentiary at the Hague.

His Majesty the King of the Hellenes: Mr. N. Delyanni, former President of the Council, former Minister for Foreign Affairs, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Italy: His Excellency Count Nigra, His Ambassador at Vienna, Senator of the Kingdom; Count A. Zannini, His Envoy Extraordinary and Minister Plenipotentiary at the Hague; Commander Guido Pompilj, Deputy in the Italian Parliament.

His Majesty the Emperor of Japan: Mr. I. Motono, His Envoy Extraordinary and Minister Plenipotentiary at Brussels.

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau: His Excellency Mr. Eyschen, His Minister of State, President of the Grand Ducal Government.

His Highness the Prince of Montenegro: His Excellency Mr. de Staal, Privy Counsellor, Ambassador of Russia at London.

Her Majesty the Queen of the Netherlands: the Jonkheer A. P. C. van Karnebeek, former Minister of Foreign Affairs, Member of the Second Chamber of the States General; General J. C. C. den Beer Poortugael, former Minister of War, Member of the Council of State; Mr. T. M. C. Asser, Member of the Council of State; Mr. E. N. Rahusen, Member of the First Chamber of the States General.

His Imperial Majesty the Shah of Persia: His Aid-de Camp General Mirza Riza Khan, Arfa-ud-Dovleh, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Stockholm.

His Majesty the King of Portugal and of the Algarves, etc.: Count de Macedo, Peer of the Kingdom, former Minister of Marine and of the Colonies, His Envoy Extraordinary and Minister Plenipotentiary at Madrid; Mr. d'Ornellas et Vasconcellos, Peer of the Kingdom, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg; Count de Selir, His Envoy Extraordinary and Minister Plenipotentiary at the Hague.

His Majesty the King of Roumania: Mr. Alexander Beldiman, His Envoy Extraordinary and Minister Plenipotentiary at Berlin; Mr. Jean N. Papiniu, His Envoy Extraordinary and Minister Plenipotentiary at the Hague.

His Majesty the Emperor of all the Russias: His Excellency Mr. de Staal, Privy Counsellor, His Ambassador at London; Mr. de Martens, Permanent Member of the Council of the Imperial Ministry of Foreign Affairs, His Privy Counsellor; Mr. de Basily, His Counsellor of State, Chamberlain, Director of the First Department of the Imperial Ministry for Foreign Affairs.

His Majesty the King of Serbia: Mr. Miyatovitch, His Envoy Extraordinary and Minister Plenipotentiary at London and at the Hague.

His Majesty the King of Siam: M. Phya Suriya Nuvatr, His Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Paris; M. Phya Visuddha Suriyasakti, His Envoy Extraordinary and Minister Plenipotentiary at the Hague and at London.

His Majesty the King of Sweden and Norway: the Baron de Bildt, His Envoy Extraordinary and Minister Plenipotentiary at Rome.

His Majesty the Emperor of the Ottomans: His Excellency Turkhan Pasha, former Minister of Foreign Affairs, Member of His Council of State; Noury Bey, Secretary General in the Ministry of Foreign Affairs.

His Royal Highness the Prince of Bulgaria: Dr. Dimitri Stancioff, Diplomatic Agent at St. Petersburg; Major Christo Hessaptchieff, Military Attaché at Belgrade.

Who, after communication of their full powers, found in good and due form, have agreed on the following:—

#### ARTICLE I.

The High Contracting Parties shall issue instructions to their armed land forces, which shall be in conformity with the "Regulations respecting the Laws and Customs of War on Land," annexed to the present Convention.

## ARTICLE II.

The provisions contained in the Regulations mentioned in Article I are only binding on the Contracting Powers, in case of war between two or more of them.

These provisions shall cease to be binding from the time when, in a war between Contracting Powers, a non-Contracting Power joins one of the belligerents.

## ARTICLE III.

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy, duly certified, shall be sent through the diplomatic channel, to all the Contracting Powers.

## ARTICLE IV.

Non-Signatory Powers are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification, addressed to the Netherland Government, and by it communicated to all the other Contracting Powers.

## ARTICLE V.

In the event of one of the High Contracting Parties denouncing the present Convention, such denunciation would not take effect until a year after the written notification made to the Netherland Government, and by it at once communicated to all the other Contracting Powers.

This denunciation shall affect only the notifying Power.

In faith of which the Plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at the Hague the 29th July 1899, in a single copy, which shall be kept in the archives of the Netherland Government, and copies of which, duly certified, shall be delivered to the Contracting Powers through the diplomatic channel.

For Germany:

(Signed)

MUNSTER DERNEBURG.

For Austria-Hungary:

(Signed)

WELSERSHEIMB.  
OKOLICSANYI.

For Belgium:

(Signed)

A. BEERNAERT.  
CTE DE GRELLE ROGIER.  
CHR DESCAMPS.

For Denmark:

(Signed)

F. BILLE.

For Spain:

(Signed)

EL DUQUE DE TETUAN.  
W. R. DE VILLA URRUTIA.  
ARTURO DE BAGUER.

For the United States of America:

(Signed)

STANFORD NEWEL.

For the United Mexican States:

(Signed)

M. DE MIER.  
J. ZENIL.

For France:

(Signed)

LEON BOURGEOIS.  
G. BIHOUD.  
D'ESTOURNELLES DE CONSTANT.

For Great Britain and Ireland:

(Signed)

PAUNCEFOTE.  
HENRY HOWARD.

For Greece:

(Signed)

N. DELYANNI.

For Italy:

(Signed)

NIGRA.  
A. ZANNINI.  
G. POMPILJ.

For Japan:

(Signed)

I. MOTONO.

For Luxemburg: (Signed)	EYSCHEN.
For Montenegro: (Signed)	STAAL.
For the Netherlands: (Signed)	V. KARNEBEEK. DEN BEER POORTUGAEL. T. M. C. ASSER. E. N. RAHUSEN.
For Persia: (Signed)	MIRZA RIZA KHAN, Arfa-ud-Dovleh.
For Portugal: (Signed)	CONDE DE MACEDO. AGOSTINHO D'ORNELLAS DE VASCONCELLOS. CONDE DE SELIR.
For Roumania: (Signed)	A. BELDIMAN. J. N. PAPINIU.
For Russia: (Signed)	STAAL. MARTENS. A. BASILY.
For Servia: (Signed)	CHEDO MIYATOVITCH.
For Siam: (Signed)	PHYA SURIA NUVATR. VISUDDHA.
For the United Kingdoms of Sweden and Norway: (Signed)	BILDT.
For Turkey: (Signed)	TURKHAN. MEHEMED NOURY.
For Bulgaria: (Signed)	D. STANCIOFF. MAJOR HESSAPTCHIEFF.

[Translation.]

#### ANNEX TO THE CONVENTION.

#### REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

#### SECTION I.—ON BELLIGERENTS.

#### CHAPTER I.—*On the Qualifications of Belligerents.*

#### ARTICLE I.

The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps, fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;
  2. To have a fixed distinctive emblem recognizable at a distance;
  3. To carry arms openly; and
  4. To conduct their operations in accordance with the laws and customs of war.
- In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

#### ARTICLE II.

The population of a territory which has not been occupied who, on the enemy's approach, spontaneously take up arms to resist the invading troops without having time to organize themselves in accordance with Article I, shall be regarded a belligerent, if they respect the laws and customs of war.

#### ARTICLE III.

The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy both have a right to be treated as prisoners of war.

CHAPTER II.—*On Prisoners of War.*

## ARTICLE IV.

Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them.

They must be humanely treated.

All their personal belongings, except arms, horses and military papers remain their property.

## ARTICLE V.

Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go beyond certain fixed lines; but they can only be confined as an indispensable measure of safety.

## ARTICLE VI.

The State may utilize the labor of prisoners of war according to their rank and aptitude. Their tasks shall not be excessive, and shall have nothing to do with military operations.

Prisoners may be authorized to work for the Public Service, for private persons, or on their own account.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks.

When the work is for other branches of the Public Service or for private persons, the conditions shall be settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance.

## ARTICLE VII.

The Government into whose hands prisoners of war have fallen is bound to maintain them.

Failing a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them.

## ARTICLE VIII.

Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State into whose hands they have fallen.

Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary.

Escaped prisoners, recaptured before they have succeeded in rejoining their army or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping are again taken prisoners, are not liable to any punishment for the previous flight.

## ARTICLE IX.

Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class.

## ARTICLE X.

Prisoners of war may be set at liberty on parole if the laws of their country authorize it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfill, both as regards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases, their own Government shall not require of nor accept from them any service incompatible with the parole given.

## ARTICLE XI.

A prisoner of war can not be forced to accept his liberty on parole; similarly the hostile Government is not obliged to assent to the prisoner's request to be set at liberty on parole.

## ARTICLE XII.

Any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honor, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the Courts.

## ARTICLE XIII.

Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying.

## ARTICLE XIV.

A Bureau for information relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States, and when necessary, in the neutral countries on whose territory belligerents have been received. This Bureau is intended to answer all inquiries about prisoners of war, and is furnished by the various services concerned with all the necessary information to enable it to keep an individual return for each prisoner of war. It is kept informed of interments and changes, as well as of admissions into hospital and deaths.

It is also the duty of the Information Bureau to receive and collect all objects of personal use, valuables, letters, &c., found on the battlefields or left by prisoners who have died in hospital or ambulance, and to transmit them to those interested.

## ARTICLE XV.

Relief Societies for prisoners of war, which are regularly constituted in accordance with the law of the country with the object of serving as the intermediary for charity, shall receive from the belligerents for themselves and their duly accredited agents every facility, within the bounds of military requirements and Administrative Regulations, for the effective accomplishment of their humane task. Delegates of these Societies may be admitted to the places of interment for the distribution of relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all their Regulations for order and police.

## ARTICLE XVI.

The Information Bureau shall have the privilege of free postage. Letters, money orders, and valuables, as well as postal parcels destined for the prisoners of war or dispatched by them, shall be free of all postal duties both in the countries of origin and destination, as well as in those they pass through.

Gifts and relief in kind for prisoners of war shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways.

## ARTICLE XVII.

Officers taken prisoners may receive, if necessary, the full pay allowed them in this position by their country's regulations, the amount to be repaid by their Government.

## ARTICLE XVIII.

Prisoners of war shall enjoy every latitude in the exercise of their religion, including attendance at their own church services, provided only they comply with the regulations for order and police issued by the military authorities.

## ARTICLE XIX.

The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the National Army.

The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

## ARTICLE XX.

After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible.

CHAPTER III.—*On the Sick and Wounded.*

## ARTICLE XXI.

The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention of the 22nd August, 1864, subject to any modifications which may be introduced into it.

## SECTION II.—ON HOSTILITIES.

CHAPTER I.—*On means of injuring the Enemy, Sieges, and Bombardments.*

## ARTICLE XXII.

The right of belligerents to adopt means of injuring the enemy is not unlimited.

## ARTICLE XXIII.

Besides the prohibitions provided by special Conventions, it is especially prohibited:—

- (a.) To employ poison or poisoned arms;
- (b.) To kill or wound treacherously individuals belonging to the hostile nation or army;
- (c.) To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion;
- (d.) To declare that no quarter will be given;
- (e.) To employ arms, projectiles, or material of a nature to cause superfluous injury;
- (f.) To make improper use of a flag of truce, the national flag, or military ensigns and the enemy's uniform, as well as the distinctive badges of the Geneva Convention;
- (g.) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

## ARTICLE XXIV.

Ruses of war and the employment of methods necessary to obtain information about the enemy and the country, are considered allowable.

## ARTICLE XXV.

The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited.

## ARTICLE XXVI.

The Commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities.

## ARTICLE XXVII.

In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants.

## ARTICLE XXVIII.

The pillage of a town or place, even when taken by assault, is prohibited.

CHAPTER II.—*On Spies.*

## ARTICLE XXIX.

An individual can only be considered a spy if, acting clandestinely, or on false pretences, he obtains, or seeks to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not in disguise who have penetrated into the zone of operations of a hostile army to obtain information are not considered spies. Similarly, the

following are not considered spies: soldiers or civilians, carrying out their mission openly, charged with the delivery of despatches destined either for their own army or for that of the enemy. To this class belong likewise individuals sent in balloons to deliver despatches, and generally to maintain communication between the various parts of an army or a territory.

#### ARTICLE XXX.

A spy taken in the act cannot be punished without previous trial.

#### ARTICLE XXXI.

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

### CHAPTER III.—*On Flags of Truce.*

#### ARTICLE XXXII.

An individual is considered as bearing a flag of truce who is authorized by one of the belligerents to enter into communication with the other, and who carries a white flag. He has a right to inviolability, as well as the trumpeter, bugler, or drummer, the flag-bearer, and the interpreter who may accompany him.

#### ARTICLE XXXIII.

The Chief to whom a flag of truce is sent is not obliged to receive it in all circumstances.

He can take all steps necessary to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily.

#### ARTICLE XXXIV.

The envoy loses his rights of inviolability if it is proved beyond doubt that he has taken advantage of his privileged position to provoke or commit an act of treachery.

### CHAPTER IV.—*On Capitulations.*

#### ARTICLE XXXV.

Capitulations agreed on between the Contracting Parties must be in accordance with the rules of military honour.

When once settled, they must be scrupulously observed by both the parties.

### CHAPTER V.—*On Armistices.*

#### ARTICLE XXXVI.

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not fixed, the belligerent parties can resume operations at any time, provided always the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

#### ARTICLE XXXVII.

An armistice may be general or local. The first suspends all military operations of the belligerent States; the second, only those between certain fractions of the belligerent armies and in a fixed radius.

#### ARTICLE XXXVIII.

An armistice must be notified officially, and in good time, to the competent authorities and the troops. Hostilities are suspended immediately after the notification, or at a fixed date.

## ARTICLE XXXIX.

It is for the Contracting Parties to settle, in the terms of the armistice, what communications may be held, on the theatre of war, with the population and with each other.

## ARTICLE XL.

Any serious violation of the armistice by one of the parties gives the other party the right to denounce it, and even, in case of urgency, to recommence hostilities at once.

## ARTICLE XLI.

A violation of the terms of the armistice by private individuals acting on their own initiative, only confers the right of demanding the punishment of the offenders, and, if necessary, indemnity for the losses sustained.

## SECTION III.—ON MILITARY AUTHORITY OVER HOSTILE TERRITORY.

## ARTICLE XLII.

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself.

## ARTICLE XLIII.

The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

## ARTICLE XLIV.

Any compulsion of the population of occupied territory to take part in military operations against its own country is prohibited.

## ARTICLE XLV.

Any pressure on the population of occupied territory to take the oath to the hostile Power is prohibited.

## ARTICLE XLVI.

Family honours and rights, individual lives and private property, as well as religious convictions and liberty, must be respected.

Private property cannot be confiscated.

## ARTICLE XLVII.

Pillage is formally prohibited.

## ARTICLE XLVIII.

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules in existence and the assessment in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound.

## ARTICLE XLIX.

If, besides the taxes mentioned in the preceding Article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory.



## ARTICLE L.

No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

## ARTICLE LI.

No tax shall be collected except under a written order and on the responsibility of a Commander-in-Chief.

This collection shall only take place, as far as possible, in accordance with the rules in existence and the assessment of taxes in force.

For every payment a receipt shall be given to the taxpayer.

## ARTICLE LII.

Neither requisition in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money; if not, their receipt shall be acknowledged.

## ARTICLE LIII.

An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

Railway plant, land telegraphs, telephones, steamers, and other ships, apart from cases governed by maritime law, as well as depôts of arms and, generally, all kinds of war material, even though belonging to Companies or to private persons, are likewise material which may serve for military operations, but they must be restored at the conclusion of peace, and indemnities paid for them.

## ARTICLE LIV.

The plant of railways coming from neutral States, whether the property of those States, or of Companies, or of private persons, shall be sent back to them as soon as possible.

## ARTICLE LV.

The occupying State shall only be regarded as administrator and usufructuary of the public buildings, real property, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.

## ARTICLE LVI.

The property of the communes, that of religions, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science, is prohibited, and should be made the subject of proceedings.

SECTION IV.—ON THE INTERNMENT OF BELLIGERENTS AND THE CARE OF THE WOUNDED IN NEUTRAL COUNTRIES.

## ARTICLE LVII.

A neutral State which receives in its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It can keep them in camps, and even confine them in fortresses or locations assigned for this purpose.

It shall decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without authorization.

#### ARTICLE LVIII.

Failing a special Convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace, the expenses caused by the internment shall be made good.

#### ARTICLE LIX.

A neutral State may authorize the passage through its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of safety and control as may be necessary for the purpose.

Wounded and sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

#### ARTICLE LX.

The Geneva Convention applies to sick and wounded interned in neutral territory.

## NICARAGUA, SALVADOR, AND COSTA RICA.

### REVOLUTION, AND DEMAND OF NICARAGUAN GOVERNMENT FOR SECOND PAYMENT OF CUSTOMS DUTIES COLLECTED BY INSUR- GENTS WHILE IN TEMPORARY POSSESSION OF BLUEFIELDS.

*Mr. Merry to Mr. Hay.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, February 9, 1899.*

Revolution Mosquito territory. President Nicaragua requests you will send immediately naval ship San Juan del Norte.

MERRY.

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*Mr. Hay to Mr. Merry.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, February 10, 1899.*

Minister for foreign affairs Nicaragua notifies closing Atlantic ports occupied by rebels. If any question affecting American vessels arises consult note to Colombian minister, Foreign Relations, eighty-five, page two fifty-four.

HAY.

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*Mr. Merry to Mr. Hay.*

No. 211.]

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, February 10, 1899.*

SIR: I have the honor to acknowledge receipt of your cablegram dated 9th instant, translated as follows: "Minister of foreign affairs Nicaragua notifies closing Atlantic ports occupied by rebels. If any question affecting American vessels arises consult note to Colombian minister, Foreign Relations, 1885, page 254." When the legation documents were moved here from Managua by Mr. Baker, ex-secretary, the Annual Foreign Relations Reports, prior to 1893, and the Revised Statutes, were left behind. As the volume for 1885 can be more readily sent from Washington than Managua, I have taken the liberty of requesting that it be forwarded. In accordance with your cable instructions of November 28, 1898, relating to the ships of the Pacific Mail Steamship Company calling at Salvador ports, I shall, until otherwise ordered, claim that American vessels have the right of entry to any commercial port of Nicaragua in the uncontested occupation of a de facto government. But the steamers calling at these ports are now mostly English and Norwegian, and such cases are not likely to arise under our flag. I shall further be guided by

the note alluded to in your cable when the volume Foreign Relations, 1885, arrives. The British consul has also cabled for a naval vessel to immediately visit Bluefields and San Juan del Norte.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

*Mr. Hay to Mr. Merry.*

[Telegram]

DEPARTMENT OF STATE,  
*Washington, February 10, 1899.*

*Marietta* ordered Greytown, Bluefields.

HAY.

*Mr. Merry to Mr. Hay.*

No. 212.]

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, February 12, 1899.*

SIR: I have the honor to further confirm my cable of the 10th instant, reading, translated: "Mosquito territory revolutionists invading interior via San Juan del Norte, also revolutionizing in Honduras. Send without delay Foreign Relations, year 1885. Consular Agent Clancy, Bluefields, has requested war ship sent immediately. I concur." Late on 10th instant I received your word cipher cable translated "*Marietta* ordered Greytown, Bluefields." I inclose herewith copy of letter from M. J. Clancy, consular agent at Bluefields, dated February 5 (inclosure No. 1), which explains the situation at this date. You will notice that he hired the schooner *Buenaventura* to deliver this information at Limon, and asks me how he is to be repaid the expense. I have replied to send me the bill which I will forward to the Department for approval in due time, as it appears to have been a judicious expenditure, provided the amount is reasonable, of which I have no doubt. I also inclose copy of his proclamation (inclosure No. 2) urging absolute neutrality upon all American citizens, which appears judicious. Having in view the probability of the revolutionists reaching the interior, I have telegraphed Consul Donaldson at Managua to take the same action as Mr. Clancy in this particular. It appears to me that the success of General Reyes's movement depends largely upon the question of transportation from San Juan del Norte, up the San Juan River and over Lake Nicaragua to his objective point, Granada. Should President Zelaya, by immediate seizure of lake and river steamers, prevent his access to the interior, the movement may be localized on the Mosquito coast. These steamers are now the property of the English Caribbean Sea Transit Company. But, on the other hand, President Zelaya will be cautious about weakening his military position at the capital by sending a large part of his force to the Atlantic littoral, and without it I do not understand how he can expect to restore his authority over it, especially as the movement has the basis of commercial aid and is reported as having also the united support of all foreign as well as native interests on the Mosquito coast. The revolutionary movement on

the northern coast of Honduras is probably inaugurated simultaneously with that of General Reyes by prior arrangement, lest President Zelaya might receive aid from the Honduras Government, and also as tending to the success of both. I regret to notice that a considerable number of parties claiming American citizenship are aiding the revolutionary movement of General Reyes, notwithstanding Mr. Clancy's admonition. If the movement fails, we shall have these gentlemen claiming protection. I have requested Mr. Clancy to send me the names of these parties, so far as known to him.

I am informed by the English consul that H. B. M. ship *Intrepid* is expected at Limon on 13th instant en route to Bluefields via San Juan del Norte, and will reach those ports two or three days before the *Marietta*. By her I shall write to consular officers there.

Should it appear that I can better serve the interests of the United States, in case the revolutionary movement reaches the interior of Nicaragua, I shall cable you for instructions to visit Managua via Puntarenas and Corinto, American steamers being available at first-named port if I leave here on 19th or 21st instant.

With assurances, etc.,

WILLIAM L. MERRY,  
*United States Minister.*

[Inclosure 1.]

*Mr. Clancy to Mr. Merry.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, February 5, 1899.*

SIR: I have the honor to inform you that at 10 o'clock yesterday morning (the 4th instant) Gen. J. P. Reyes (resigned), late governor intendant of the department of Zelaya, publicly announced himself in open rebellion against the present lawful Government of the Republic of Nicaragua, by the promiscuous distribution of the inclosed proclamation, in which he styles himself the liberator of Nicaragua.

His army of 300 men left for the "Bluff" at 5 p. m. to-day where they will embark in the San Jacinto and Carib crafts, and leave for Greytown at midnight, at which place he will give battle to the forces of President Zelaya, if met there.

Among the number are 21 natives and 20 young men claiming citizenship, who act as the general's bodyguard.

After his defeat of the Liberals at Greytown, he will leave a detachment there and make a triumph at Castillo, then on to San Carlos, where capitulation will take place, across the lake to Grenada, at which city he will be received with acclamation, and as the capture or surrender of Managua is merely a matter of form, the occupation will terminate hostilities, and General Reyes will be proclaimed President of the Republic of Nicaragua by the unanimous voice of the people who have so long been trodden underfoot by President Zelaya and his subordinates.

The Liberals are now in power and control the Government.

No thought is given to disaster by General Reyes as all his plans are certain of fulfillment, and such a thing as defeat is impossible.

These are, in substance, the actual views he and many of his enthusiastic followers firmly believe in.

The emergency of the occasion requires the immediate presence of an American man-of-war to protect the persons and property of the citizens of the United States in Bluefields and vicinity.

Any vessels drawing 12 feet can cross the bar and anchor at the "Bluff," 6 miles across the lagoon from Bluefields.

This is sent by special boat, as General Reyes refused yesterday to allow the use of the wires to Managua so that I could cable direct to Washington, as Mr. Sorsby is in the United States on a vacation.

Why not also advise Mr. Donaldson at Managua?

I inclose for your consideration a copy of dispatch sent to Hon. T. Percy Scott, United States vice-consul at Greytown, which is self-explanatory.  
How am I to be reimbursed for the outlay of sending boat to Port Limon?  
I am, etc.,

M. J. CLANCY,  
*Consular Agent.*

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[Inclosure 2.]

*Proclamation of Mr. Clancy.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, February 3, 1899.*

All citizens of the United States of America are hereby warned not to take any part in the political trouble existing here, and are to observe a strict neutrality.

M. J. CLANCY,  
*Consular Agent.*

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*Mr. Merry to Mr. Hay.*

[Telegram.]

SAN JOSÉ, COSTA RICA, *February 15, 1899.*

Have received information rebellion in Nicaragua may be very serious. I have to suggest your instructions to visit capital of Nicaragua the next steamer, Punta Arenas, leaving the secretary of legation San José.

MERRY.

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*Mr. Merry to Mr. Hay.*

No. 214.]

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, February 16, 1899.*

SIR: I have the honor to inclose herewith the letter of Sr. Sanson, secretary of foreign affairs of the Republic of Nicaragua, alluding to my visiting Managua. Since it was written events have occurred there which impress me with the advisability of my going there promptly, in the public interest.

Yesterday I sent you the following cable: "Have received information rebellion in Nicaragua may be very serious. I have to suggest your instructions to visit capital of Nicaragua the next steamer, Punta Arenas, leaving the secretary of legation San José." To this I have just received your cable authorizing the trip, and have arranged to leave Punta Arenas on 22d instant for Corinto and Managua, hoping to reach the latter city on 24th p. m. Any cables you may desire to send after that date I respectfully suggest should be addressed to Managua, but letters should continue to come to San José whence they can be read by the secretary of legation and forwarded by him via Punta Arenas in about same time as would be necessary via Panama direct to Managua. The Government here, yesterday, received advices from their customs station at the junction of San Carlos and San Juan rivers that General Reyes is in possession of San Juan del Norte and advancing up river; that the Chontales Coast of Lake Nicaragua is also in revolt against the Zelaya Government; that Reyes had abundant money when he started from Bluefields, and 5,000 rifles with proper ammunition. The force he has with him is unknown further

than as before stated: About 300 men, including about 20 Americans and other foreigners also. I am informed to-day by reliable Nicaraguan refugees that just prior to the Bluefields revolt most of the leading conservatives at Leon, Grenada, and Rivas left their homes for the Chontales Coast east of the lake to join the insurgents. I now feel assured that the Mosquito Coast interests of American and British citizens are protected by naval vessels, and as the conflict is likely to move inland it is my impression that I can be of service at Managua, whence I will write you soon after arrival, and, if necessary, cable either direct or via San José, to which place I can telegraph fully if desiring to communicate more promptly by mail than is possible via Panama.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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*Mr. Sanson to Mr. Merry.*

[Inclosure.—Translation.]

MINISTRY OF FOREIGN RELATIONS,  
REPUBLIC OF NICARAGUA,  
*National Palace, Managua, February 7, 1899.*

MR. MINISTER: The Secretary of State of the United States, in a communication of the 16th last month, informs me that on the 6th December last instructions were given your excellency to present to this Government your credentials. Your excellency may be certain that you will be received with particular favor by the Government and people of Nicaragua, always interested in drawing closer the relations that bind them with the nation that your excellency worthily represents, to-day, above all, that the realization of an interoceanic canal through our territory interests so much the future of the two Republics.

I repeat to your excellency the assurance, etc.,

J. SANSON.

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*Mr. Merry to Mr. Hay.*

No. 215.]

SAN JOSÉ, COSTA RICA,  
*February 16, 1899.*

SIR: I have the honor to inclose herewith the copies of two telegrams received from Consul Donaldson at Managua, and my reply to the last, dated 14th instant. The suggestion that I shall countenance intervention by the United States naval force in the domestic disturbances of Nicaragua (except as necessary for the protection of the lives or property of our citizens) is inconsistent with the repeated instructions he has received in regard to our neutrality obligations. Precisely the same question arose during the prospect of hostilities between Nicaragua and Costa Rica early in 1898. The Government of Salvador, under General Gutierrez (now sojourning an exile in this city), fitted out its steamer *Cuscatlan* with men and war munitions to aid Costa Rica, although Salvador was then a member of the "Greater Republic of Central America," jointly with Nicaragua and Honduras. The *Cuscatlan* flew the flag of that "political corporation," now the flag of Nicaragua, adopted for the proposed federation because it was the ensign of the "Republic of Central America," first organized and dissolved in 1837. President Zelaya requested Commander Leutze of the U. S. S. *Alert* to seize the *Cuscatlan* for the same alleged reasons

and met with a refusal. The steamer *San Jacinto* belongs to the Nicaraguan Government, was stationed at Bluefields when seized by General Reyes's insurgents, and is now at San Juan del Norte, which port, I am informed, is in their possession. Even had I authority to order such seizure I should have declined to act upon it, confident that my course would meet with your approval.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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[Inclosure 1.]

*Mr. Donaldson to Mr. Merry.*

[Telegrams.]

Dispatched Managua, February 12, 1899.

Received San José, February 13, 1899.

An American vessel has arrived at Greytown. I suppose her to be the *Machias*. I beg you to give me instructions to communicate. There is nothing new. Rest of the country obeys the Government. Captain leaves to-morrow (for) Bluefields.

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[Inclosure 2.]

*Mr. Donaldson to Mr. Merry.*

[Telegram.]

Dispatched Managua February 14, 1899, 12 m.

Received San José, February 14, 1899, 7.40 p. m.

The steamer *San Jacinto*, armed for war against the Government of Nicaragua, carries the flag of this Republic without authority, and in consequence I have received an earnest intimation from the Government of Nicaragua that the American vessels of war should detain and disarm it as a vessel without a flag and a filibuster. I send this in order that, if it seems well to you, you may order by telegraph to San Juan what you think advisable, suggesting that this part go in Spanish in order that the telegraph operators make no mistakes.

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[Inclosure 3.]

*Mr. Merry to Mr. Donaldson.*

[Telegram.]

SAN JOSÉ, COSTA RICA, February 15, 1899.

Entirely beyond my control. Naval officer under control Secretary of the Navy for orders. Telegraph about rebellion becoming serious.

MERRY.

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*Mr. Merry to Mr. Hay.*

[Telegram.]

MANAGUA, February 26, 1899.

The revolution in Nicaragua appears to be a failure; demanding the position of strict neutrality our citizens.

MERRY.



*Mr. Merry to Mr. Hay.*

[Telegram.]

MANAGUA, *February 27, 1899.*

The capital of Mosquito Territory has been captured by the Government of Nicaragua. United States, English naval forces landed temporarily.

MERRY.

*Mr. Merry to Mr. Hay.*

[Telegram.]

MANAGUA, *February 28, 1899.*

Government of Nicaragua asserts duress from the naval forces at the capital of Mosquito Territory, requesting strict neutrality. Forty-two Americans have surrendered to the naval forces occupying the capital of Mosquito Territory. Government of Nicaragua promises lives, demanding trial by law. Illegal expedition New Orleans leaving for Honduras, Nicaragua. Prevention is requested.

MERRY.

*Mr. Hay to Mr. Merry.*

No. 197.]

DEPARTMENT OF STATE,

*Washington, March 3, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 215, of the 16th ultimo, reporting your refusal to request the commander of the United States naval forces in Central American waters to seize the Nicaraguan steamer *San Jacinto*, an intimation from the Nicaraguan Government that you make such request having been communicated to you through our consul at Managua.

In reply I have to say that there is not enough shown by your dispatch to justify the intervention of our naval forces. It does not appear that the *San Jacinto* is American property, unlawfully seized by the insurgents. If it were, it could be recaptured for the benefit of its lawful owners on the high seas by our naval force. See Mr. Bayard's instructions to Mr. Scruggs, May 19, 1885, Foreign Relations, 1885, page 211.

I am, etc.,

JOHN HAY.

*Mr. Merry to Mr. Hay.*

No. 219.]

LEGATION OF THE UNITED STATES OF AMERICA,

*Managua, Nicaragua, March 5, 1899.*

SIR: Upon arriving at Corinto on February 25 I found western Nicaragua peaceful, a convincing proof that the attempt at revolution on the Atlantic littoral would fail. The next day I had the honor to send you in cipher the cablegram<sup>1</sup> at the top of inclosure No. 1. The advices received on the 26th and 27th indicated the speedy termination

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

of the revolt. On the latter date the minister of foreign affairs handed me the memorandum (inclosure No. 2), of which I inclose translation. I then sent you the second<sup>1</sup> telegram on inclosure No. 1 at the request of the Government. Knowing Commander Symonds of the *Marietta* personally, I do not think that he has exercised any illegal authority or violated the duties of neutrality. I suggested to the secretary of foreign affairs, Mr. Sanson, that probably General Reuling, the Nicaraguan commander, had made the agreement with the two naval commanders to save the lives of his soldiers and the possibility of the destruction of property at Bluefields, which, doubtless, he felt authorized to do. I am at this time under impression that the 42 alleged Americans have been permitted to leave the country, saving the Department of State unnecessary annoyance. I have instructed the consular agent at Bluefields to make and forward me a list of these parties for future reference. In such cases it too often occurs that most of them are naturalized Americans, abusing their acquired privileges. The arrival of the *Marietta* was most opportune. Whatever may be the demerits of the present Government in Nicaragua, there appears to be no cohesion or united action possible on the part of its opponents, who are not likely to have such another opportunity as the revolt at Bluefields offered. Its distance from Managua and the uncertain methods of transportation, as well as communication, placed the Government at decided disadvantage, which drawbacks were only overcome by the energy of the President. It is now my impression that in Nicaragua there will be peace for some time, although possibly there may be revolt in Honduras, the Government of which, you will have noticed, aided Nicaragua by the loan of a small gunboat on the Atlantic coast, and will, should occasion arise, request a like service from Nicaragua.

I am to-day advised by the foreign secretary that the steamer *Sulda* has left New Orleans without clearance for Bluefields, and that the Vasquez expedition against Honduras has been stopped by the United States Government at New Orleans.

I am informed by telegram of yesterday from Consul Sorsby that there are now two United States naval vessels at Bluefields—presumably the *Machias* having joined the *Marietta*.

Consul Sorsby has also left San Juan del Norte for Bluefields, at which I am pleased, as his services may be needed there.

General Reyes has escaped the Bocas del Toro, and the Nicaraguan Government appears to be fully reestablished on the Mosquito Coast. I am informed by Secretary Lane, United States legation at San José, that an attack was made on the artillery barracks there on the 25th ultimo, resulting in the loss of nine lives, but the Government force repelled the assailants, and Mr. Lane advises the Government as confident of no further disturbance.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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[Inclosure.—Translation.]

*Memorandum handed W. L. Merry by Hon. J. Sanson, minister of foreign relations, Managua, February 28, 1899, requesting cable sent same date.*

General Estrada, legitimate governor of Bluefields, informs that General Reuling (of Nicaraguan army), upon demanding surrender of the city, agreed with the captains of the vessels of war (*Marietta* and *Intrepid*) and with the consuls

that the 42 Americans (riflemen) in the service of the rebellion shall be embarked to leave the country, and that the native chiefs shall be guaranteed their lives for five days. As General Reuling had no power to promise this and this appertains to the Government, the President asks that your excellency will arrange that the said American rebels submit to judgment in conformity with the law.

The American marine has impeded the work of Governor Estrada, on his part, under threat of prison.

The Government does not renounce the right of judging the rebels, and expects that the American and English ships will not assist the departure of the compromised Americans.

THE PRESIDENT, *Managua*:

There is prepared to leave promptly a filibuster expedition from New Orleans. It is certainly against Honduras for account of General Vasquez. (Memorandum: Secretary Sanson also stated that the expedition might first land in Nicaragua, near Honduras.) Corea.

WILLIAM L. MERRY.

The above is translated copy of cable from Corea, secretary Nicaragua legation at Washington; received at Managua, February 28, 1899.

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*Mr. Merry to Mr. Hay.*

[Telegram.]

MANAGUA, *March 5, 1899.*

Revolution Mosquito Territory is ended. Nicaragua quiet.

MERRY.

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*Mr. Merry to Mr. Hay.*

No. 220.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Managua, Nicaragua, March 6, 1899.*

SIR: I cabled you yesterday as follows (translated): "Revolution Mosquito Territory is ended. Nicaragua quiet." I received from Consul Sorsby, San Juan del Norte, yesterday, the following telegram in Spanish, translated: "*Marietta* arrived to-day from Bluefields and says Reyes left with passport March 1 for Bocas del Toro. Troops of the Government took possession peaceably of Rama, March 2, finishing the revolution. All quiet at Bluefields. All the foreigners mixed up in the revolution prematurely with the right of protection of the consulate, left Bluefields with passports, March 2, for New Orleans. Commerce in Bluefields without interruption." The issuance of passports removes any cause for complaint that can be made by the Nicaraguan Government in regard to the protection of Americans involved in the revolt. In a friendly conversation held yesterday with President Zelaya he characterized as a piece of stupidity the granting of these passports, but it appears to me that in this he may do his military commander injustice as he does not know, at this time, the conditions which controlled his action. I have a list of these parties, Americans, Englishmen, Cubans, Norwegians, etc., for future reference. Bocas del Toro being near the boundary line of Colombia and Costa Rica, General Reyes may find asylum in either Republic. He is either a very weak man or has greatly overestimated his following and influence. He was a close friend of President Zelaya, and in the government of the Mosquito Coast had been granted a large discretion. With the collapse of the Reyes revolt we have probably an end

to revolutionary attempts in Nicaragua for some time. The location of this last attempt was greatly in favor of the insurrection, and had aid been given by western Nicaragua, the Government might have encountered great difficulty in suppressing it.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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*Mr. Merry to Mr. Hay.*

No. 223.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Managua, Nicaragua, March 14, 1899.*

SIR: Being now fully informed as to occurrences on the Mosquito Coast, I can assert that no just cause of complaint can be made by the Nicaraguan Government in relation to the action of the United States and British naval commanders. Indeed, it appears to me a fortunate occurrence for the Zelaya Government that their influence induced a prompt surrender by General Reyes, who had no such following as he expected. I have been informed by one of the Zelaya officers, General Reuling, that the President is now satisfied with the military management of his subordinates, and no longer American and English war vessels present. I deemed his memorandum of 28th ultimo as of questionable validity, but sent my cable to you of that date to prove the desire of our Government to be absolutely neutral. I respectfully suggest that the incident is unworthy of further notice.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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*Mr. Hay to Mr. Merry.*

No. 204.] DEPARTMENT OF STATE,  
*Washington, March 20, 1899.*

SIR: I inclose herewith for your information copies of the letters listed below, in relation to the collection by the lawful Government of Nicaragua of duties paid to the insurgent General Reyes at Bluefields, under compulsion, by American merchants at that place on merchandise imported by them.

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*Mr. Adee to Mr. Clancy, consular agent at Bluefields.*

DEPARTMENT OF STATE,  
*Washington, March 6, 1899.*

SIR: Referring to your dispatch of the 18th ultimo, reporting that American merchants at Bluefields are anxious to learn whether, in case they were compelled by the insurgent General Reyes to pay duty on merchandise imported by them, the amount can be again collected by the lawful Government of Nicaragua.

In reply I have to inform you that the payment of duties to an insurgent authority in temporary occupancy of a port is a case of force majeure.

Payments noted as made "under protest" might be made the ground of equitable representations to the titular Government should it proceed to re-collect duties on regaining control. Now that the revolution of General Reyes has been

suppressed, you are directed to watch the matter and report whether any fresh demand for duties is made by the established Government of Nicaragua in respect to importations by American citizens doing business at Bluefields, giving full details in each case. If the question be so presented the Department can consider it and determine what action may properly be taken. While the parties in interest may reasonably allege the equities in their favor in case a second collection of duties be made, they could not be upheld in any refusal so to pay.

Similar instances have heretofore occurred, and the rule as to second collections has not been uniform. It is rather a question of gracious remission of duties to which the titular Government has a right, and should be so presented by the consul should the emergency arise.

I am, etc.,

ALVEY A. ADEE,  
Second Assistant Secretary.

[Inclosure 2.]

*Mr. Hay to the Secretary of the Navy.*

DEPARTMENT OF STATE,  
Washington, March 17, 1899.

SIR: I have the honor to acknowledge, with thanks, the receipt of your letter of the 14th instant, communicating for my information voluminous copies of correspondence received from the commanding officer of the U. S. S. *Marietta* concerning the revolution in Bluefields, Nicaragua.

Upon careful perusal of the correspondence, I am gratified to express my high appreciation of the tact and good judgment displayed by the commander of the *Marietta* in the delicate and embarrassing situation in which he found himself placed. That peace was fortunately restored and the titular authority of the Government of Nicaragua reestablished in that quarter is, I doubt not, largely due to Captain Symonds's intelligent action.

Among the papers you transmit, marked as "Appendix A" to Commander Symonds's report of February 24, 1899, I note the action of the foreign consuls at Bluefields in deciding that during the revolution, and in view of protecting foreign interests at that port, merchants doing business there should cease to pay in cash any dues (customs duties) whatever; that the policies covering their respective duties should be kept in abeyance, and that bonds should be issued by the merchants instead of cash payments, payable at thirty days' sight, or until such time as a legitimate government, recognized by the foreign powers, should be established at Bluefields.

The question of the proper course to be pursued by American merchants at Bluefields respecting the payment of customs duties levied and sought to be collected by the revolutionary forces holding that place had already had the attention of the Department upon a report made by the consular agent of the United States at Bluefields, and was made the subject of an instruction to Mr. Clancy, of which I inclose a copy for your information.

The expedient actually adopted appears to have been a rational solution of the difficulty, tending to protect the merchants in their just rights, and so far as it would appear to be indorsed by Commander Symonds, in his letter of February 24, his course merits approval.

I have, etc.,

JOHN HAY.

[Inclosure 3.]

*Mr. Bingham, British consul, et al., to F. M. Symonds, commanding U. S. S. Marietta.*

A.

BLUEFIELDS, NICARAGUA, February 22, 1899.

SIR: During the present revolution unhappily existing against the Nicaraguan Government, and in view of taking proper steps to protect foreign interests at this port, the undersigned consular officers, representing their respective countries, and supported by the British and American cruisers now lying off the port of Bluefields, consider it their duty to decide: That the merchants will cease to pay

in cash any dues whatsoever, and that the policies covering their respective duties will be kept in abeyance.

It has also been decided that certain bonds will be issued by the merchants instead of cash payments, payable at thirty days' sight, or until such time as a legitimate government, recognized by the foreign powers, is established at this port.

The goods are to be allowed to be discharged as heretofore by the usual steamers calling at the Bluff, and they are to be handed over to the respective merchants, as has been customary, on presentation of the aforesaid bonds.

The merchants have been directed to observe strict neutrality, and coal being contraband, even between two powers at war, they have been directed not to supply it to support the revolution.

Boats, steam launches, etc., belonging to foreign owners can not be allowed to be seized by the revolutionists for the purpose of conveying troops or stores, or for anything whatever connected with the revolution.

We have the honor to be,  
(Signed)

H. F. BINGHAM,  
H. B. M. Consul.

J. A. BELANGER,  
H. B. M. Vice-Consul.

M. J. CLANCY,  
U. S. Consular Agent.

J. A. PETERSON,  
Swedish-Norwegian Vice-Consul.

T. PERCY SCOTT,  
U. S. Vice-Consul (Greytown).

I certify the above to be a true copy.

F. M. SYMONDS,  
Commander, United States Navy, Commanding U. S. S. "Marietta."

*Mr. Hay to Mr. Merry.*

No. 206.]

DEPARTMENT OF STATE,  
Washington, March 27, 1899.

SIR: I have to acknowledge the receipt of your dispatches Nos. 219 and 220, of the 4th and 6th instant, respectively, on the subject of the recent attempt at revolution at Bluefields, Nicaragua.

Copies of the dispatches have been sent to the Secretary of the Navy for his information.

You should send to the Department your list of American citizens implicated in the affair.

I am, etc.,

JOHN HAY.

*Mr. Lane to Mr. Hay.*

No. 16.]

LEGATION OF THE UNITED STATES OF AMERICA,  
San José, Costa Rica, April 2, 1899.

SIR: I have the honor to advise the receipt this noon of the following telegram from Consular Agent S. C. Braida, at Limon, Costa Rica:

RUFUS LANE,

Chargé d'Affaires United States Legation, San José, Costa Rica:

Cable for two men-of-war to be sent at once for protection. Martial law in force. Court closed by order of judge. Colonel Torres, executive delegate, says merchants must pay to day, March 30, duties paid the last revolutionary government, and if not paid as summarily demanded, they must suffer consequences. Clancy. Nicaraguan Government refused, point-blank, use of wires. Interview Torres this morning; received no satisfaction. Clancy. Forwarded. Braida.

This request from Consular Agent Clancy, at Bluefields, Nicaragua, was evidently sent to Braida by sailing vessel on the 30th ultimo, and received by the latter this morning.

I have telegraphed the substance of this message to Minister Merry, at San Salvador, and if I fail to hear that the telegram has been delivered I shall cable the Department direct to-morrow.

With the assurance, etc.,

RUFUS A. LANE,  
*Chargé d'Affaires ad interim.*

*Mr. Lane to Mr. Hay.*

[Telegram.]

SAN JOSÉ, COSTA RICA, *April 5, 1899.*

Consulate Bluefields, 30th, asks two war vessels; merchants ordered pay Government duty immediately; already paid insurgent, otherwise suffer consequences; martial law enforced; Government refused consul use wire; am unable communicate minister.

LANE.

*Mr. Hay to Mr. Merry.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, April 6, 1899.*

Lane reports harsh proceedings Bluefields. Martial law declared. Demands made upon merchants to pay dues again. Consul summoned to give political testimony. Consul at Port Limon reports Clancy refused permission to telegraph. In view of this situation *Detroit* is ordered to Bluefields to watch events and report promptly, advising you and the Department by telegraph. You will ask that official telegrams of consul and commander be not interfered with.

HAY.

*Mr. Hay to Mr. Merry.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, April 6, 1899.*

Reappointment at Bluefields of Torres, whose removal we demanded on previous occasion, impresses this Government most unfavorably. Instruction to remonstrate anew mailed you to-day.

HAY.

*Mr. Hay to Mr. Lane.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, April 6, 1899.*

Instruction telegraphed minister. *Detroit* goes to Bluefields.

HAY.

*Mr. Hay to Mr. Merry.*

No. 211.]

DEPARTMENT OF STATE,  
*Washington, April 6, 1899.*

SIR: Under date of January 8, 1897, my predecessor, Mr. Secretary Olney, addressed an instruction, No. 526, to your predecessor, Mr. Lewis Baker, as follows:

SIR: The Department has been informed by Mr. Thomas O'Hara, consul at San Juan del Norte, under date of December 5, 1896, that the Nicaraguan Government has appointed Col. Francisco Torres as governor intendente of Bluefields; that he is the same Torres who, at the request of this Government, was dismissed from office in 1894 (see Senate Executive Document, No. 20, Fifty-third Congress, third session, "Affairs at Bluefields," Documents Nos. 46, 51, 53, and 55), and that he has held public office nearly all the time the consul has been in Nicaragua, a period of nearly twenty-two months. Persistence in such an appointment can not be deemed other than an unfriendly act, and you are instructed to make an earnest remonstrance against it.

I am, etc.,

RICHARD OLNEY.

The correspondence referred to in the foregoing instruction can be more conveniently consulted in the volume of Foreign Relations of the United States, 1894, pages 465 to 477.

Attention may be especially directed to the statement made by the Nicaraguan minister at this capital to Mr. Gresham, July 9, 1894, as follows:

Your excellency is not aware that my Government decreed the removal of Governor Torres as soon as he was suspected of complicity in the flight of Arguello, and that step was taken before Mr. Baker brought to the knowledge of our minister of foreign affairs the purport of your excellency's note of the 12th of May last, thus conspicuously demonstrating that it acts with rectitude and severity in the punishment of the guilty.

I also refer to the statement of Señor Madriz, Nicaraguan minister for foreign affairs, to Minister Baker, under date of June 8, 1894, in which he said: "It was the undersigned who dismissed Governor Torres as soon as he had evidence of his culpability."

Minister Baker's reply (No. 759, of February 4, 1897) to Mr. Olney's instructions above quoted communicated the categorical statement of President Zelaya, in which, while representing that Torres did not appear to have been in fact the person primarily responsible for the escape of Arguello, he admitted his negligence of duty, stating that the Government of Nicaragua had "not hesitated to remove him from office as a punishment and humiliation for such neglect, when requested by the United States so to do," adding that the position then lately given to Torres was subordinate to another officer, having no authority or official character except in the absence of the officer in charge, and that in giving Torres this position no disrespect to the United States Government was intended or even thought of by the President.

The reply of Mr. Olney, No. 539, of February 26, 1897, authorized Minister Baker to "reply to the Nicaraguan Government that President Zelaya's elaborate explanation is taken as a sufficient apology, under all the circumstances."

I am advised that this same person, Francisco Torres, has been appointed by the President of Nicaragua to renewed command at Bluefields with extraordinary powers for the examination and adjustment of matters connected with the recent insurrection in that district.



That the action of the Government of Nicaragua in formerly removing Torres antedated or coincided with the formal demand of this Government for his dismissal from office does not detract from that demand. On the contrary it confirms its justice.

In the light of the correspondence in the case, the Government of the United States is wholly at a loss to understand the conferment upon Torres at this time and under the present circumstances of an apparently plenary office at Bluefields. You will bring this matter to the attention of the Nicaraguan Government with all due impressiveness, and you will make it clear to that Government that persistence in such an appointment can not be deemed other than an act lacking in friendliness to the United States, against which you are instructed to make earnest representations.

I am, etc.,

JOHN HAY.

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*Mr. Merry to Mr. Hay.*

[Telegram.]

SAN SALVADOR, *April 7, 1899.*

Your two cables received; just leaving for Managua, whence will reply Monday.

MERRY.

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*Mr. Lane to Mr. Hay.*

No. 17.]      LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, April 8, 1899.*

SIR: I beg to refer to my respects of the 2d instant regarding Mr. Clancy's request for war vessels at Bluefields.

On the 5th instant I telegraphed the Department as follows (translated): "Consulate Bluefields 30th asks two war vessels. Merchants ordered pay Government; otherwise suffer consequences. Martial law enforced. Government refused consul use wire. Unable communicate minister. Lane." And on the 6th instant I received your reply, reading (translated): "Lane, Chargé, San José, Costa Rica, Instructions telegraphed minister; *Detroit* goes Bluefields. Hay," for which I beg to tender my best acknowledgments. The only additional information that I have regarding affairs at Bluefields is contained in the inclosed copies of Mr. Clancy's letters to Minister Merry, dated the 30th ultimo and 3d instant, together with inclosure called for in the former and a translation of same.

When I wrote Mr. Clancy on the 3d instant, acknowledging receipt of his first dispatch, I inclosed and called his attention to a copy of that of the Department to him, dated Washington, March 6, to serve in event of his not having received the original, since it relates to the matter of second payment of duties and asks for a detailed report of any such demand.

Minister Merry's acknowledgment of my message to him of the 2d instant reached me, after much delay en route, on the evening of the 6th instant, and then reported my telegrams as only partially legible. He advised his being due at Corinto on the 9th instant and requested me to wire him there, which I shall do, giving him the Department

message to me. He should find at Corinto letters from me to the 5th instant, inclusive.

With assurances, etc.,

RUFUS R. LANE.

[Inclosure No. 1.]

*Mr. Clancy to Mr. Merry.*

No. 19.]

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, March 30, 1899.*

SIR: I have the honor to inform you that I wanted to send the inclosed telegram to you this morning and was refused point blank the use of the wires by the Nicaraguan authorities at this place, although I informed them it was official business, and am compelled to send this in a special boat to Port Limon, so that Hon. S. C. Braida, our consular agent, can transmit it to you for immediate action.

I refused to answer the questions propounded in the inclosed, unless I first obtained permission to do so. The excuse made by General Estrada, the governor intendente and inspector-general of the Atlantic coast, was that, as I refused to answer the questions of the executive delegate, he would refuse to telegraph the President for permission for me to use the wires, and walked off in anger.

This morning the American merchants requested me to go with them and talk this repayment question over with Colonel Torres. He refused to answer any questions and said in substance if I wanted information in my capacity as consular agent I must address him in the proper way.

This was merely a subterfuge on his part to gain time, and we left his presence without having obtained any satisfaction on the subject.

He was much annoyed that I did not answer his questions at once, and brought this matter in several times during the interview.

These people must be taught the salutary lesson of acting with justice and moderation in the execution of their laws and decrees issued by His Excellency President Zelaya.

Just think of it! The President sent a man from Managua, who asks our merchants to call on him on business, and when the merchants appear before the person so sent he is informed that he must pay a certain amount of money to the present Government within twenty-four hours or suffer the legal consequences, (martial law being in force) without having the least opportunity to reply or defend his action. And when the judge is asked the penalty for noncompliance he says he does not know, and when the same question is put to the executive delegate he also pleads ignorance.

Decree just issued at 4.30 p. m. increasing duties 50 per cent, to take immediate effect.

I am, etc.,

M. J. CLANCY.

[Inclosure No. 2.]

*Mr. Clancy to Mr. Merry.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, March 30, 1899.*

SIR: Cable for two men-of-war to be sent here at once for the protection of the property of American citizens.

Martial law in force and courts closed by order of President Zelaya since the 18th instant.

Col. Francisco E. Torres, executive delegate, says the merchants must pay to-day the amounts of duties paid the late revolutionary government; also, if not paid as summarily demanded by him, they must suffer the consequences.

The Nicaraguan Government refuses point blank the use of the wires for sending this telegram, although the wires are in working order.

Interviewed Colonel Torres this morning and received no satisfaction.

M. J. CLANCY.

[Subinclosure No. 1.—Translation.]

*Mr. Torres to Mr. Clancy.*

BLUEFIELDS, March 2., 1899.

DEAR SIR: Invested as I am with the high functions of delegate of the executive power on the Atlantic coast, and the object of the Government in sending me to this department being as much the application of the law to those who, in the rebellion of the 3d of February last, arose in arms against the constituted authority, as to investigate the cause of the uprising, and who were in it, I believe it my duty, in the conception of filling my commission with justice and equity, to take or collect the data that is the most trustworthy to me and comes from people or authorities whose integrity is above question; therefore, I address the consular agent by means of the present, asking information that he, no one better informed, will be able to give the Government, rendering in that way an inestimable service, and which I hope, from his impartiality and uprightness, will not fail since he represents the Government of a brother country and friend of Nicaragua, and you have always shown, in the name of the United States of America, the desire of strengthening the friendly relations between both countries.

1. Please tell me the date of the notices which warned your countrymen of the strictest neutrality, and if this warning was caused because the authorities of this city had disavowed the government or Gen. J. Santos Zelaya.

2. What causes alleged or had the American citizens to interfere and take arms, swelling the ranks of the rebels, and had they promises from the rebel chiefs, and were these of pecuniary remuneration, command, or control in the government of the country or of this littoral?

3. For what motive or with what object did the commercial houses of the New Orleans and Central American Trading Company, Brown & Harris, Peterson, Allan & Caldwell, Sam. Weil, and Sam. D. Spellman give the Americans under the orders of Gen. Juan Pablo Reyes clothing and other things to organize the body commanded by the American citizen Kennedy?

4. Why, in spite of your prohibition, were the Americans present at the hour and moment when the rebellion, headed by the civil and military authorities of this city and Rama, began assisting to foment it, some with arms, others with money for the payment of import duties, and provisions?

5. Why did the Bluefields Steamship Company give steamers for the transportation of troops, permitting steamers like *El Condor* to come into port, closed from the moment the rebellion started, with merchandise that arrived without consular invoices that same steamer carried and brought to Rama and from San Juan del Norte?

6. For what motives, and authorized by whom, went various Americans like Jacob Conn to the Government palace, from whence they took arms and ammunition to the International Club?

7. Why, knowing that the Government employee had been taken from the custom-house on the Bluff, and that in his place had been put the American, H. W. Mallitz, did they continue passing their merchandise and paying duties to the rebellion in person of H. P. Salter, rebel employee, as was evident to all?

8. If you and the captain of the war steamer *Marietta* endeavored to render your countrymen more obedient and even threatened them, in the case of not being so, would they lose their American citizenship?

9. If, on the contrary, you and the captain of the *Marietta* and the rest of the American citizens recognized as legitimate the authorities created by the rebellion that took place in this city and Rama and that was headed by Gen. Juan P. Reyes.

Expecting that you will reply with pleasure to the questions made by the present, I thank you in anticipation in name of the Government and subscribe myself,

Yours, etc.,

FRANCISCO E. TORRES.

[Inclosure No. 3.]

*Mr. Clancy to Mr. Merry.*

No. 20.]

UNITED STATES CONSULAR AGENCY,  
Bluefields, Nicaragua, April 3, 1899.

SIR: I have the honor to inform you that no action has been taken by Col. Francisco E. Torres, executive delegate, up to 6 p. m. to-day about collecting the duties, mention of which was contained in my No. 20.

I am credibly informed that he will proceed in either of the following ways:

1. To allow no goods arriving from the United States for the merchants refusing to pay to be delivered them unless they pay the duties over again.

2. A squad of soldiers acting under orders of Colonel Torres will enter a store, take forcible possession of a certain amount of goods, and compel the owner to turn over the daily sales of all merchandise sold, until a sufficient amount has been collected to pay the amounts they arbitrarily demand, as well as the expenses connected therewith, and the executive delegate considers this the just and only proper way of getting the money.

"J. A. Belanger & Co." and "Brown & Harris" have paid, the former English and the latter half English and American.

I am, etc.,

M. J. CLANCY.

*Mr. Hay to Mr. Merry.*

No. 212.]

DEPARTMENT OF STATE,  
Washington, April 11, 1899.

SIR: I append hereto copies of my two telegrams<sup>1</sup> of the 6th instant touching the reappointment at Bluefields of Governor Torres, and inclose herewith for your information copy of a telegram received from Mr. Lane at San José and of the Department's telegram in reply, relating to affairs at Bluefields.

With reference to Mr. Lane's statement that he is unable to communicate with you, he has been instructed, should his telegrams be interfered with, to ask instant permission to send and receive official telegrams.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Lane.*

DEPARTMENT OF STATE,  
Washington, April 11, 1899.

SIR: I append hereto copy of your telegram<sup>1</sup> of the 5th instant, and of this Department's reply of the 6th, as well as copies of telegrams to Mr. Merry, all relating to affairs at Bluefields.

Referring to the statement in your telegram, that you are unable to communicate with the minister, you are instructed to ask, should your telegrams be interfered with, instant permission to send and receive official telegrams.

I am, etc.,

JOHN HAY.

*Mr. Merry to Mr. Hay.*

[Telegram.]

MANAGUA, April 12, 1899.

On arriving at San Juan del Norte, April 20, will consult commander of war vessel. Am going to Mosquito Territory. In case of necessity will leave on the 17th.

MERRY.

<sup>1</sup> Printed ante.

*Mr. Merry to Mr. Hay.*

No. 235.] LEGATION OF THE UNITED STATES OF AMERICA,  
Managua, April 13, 1899.

SIR: I have the honor to acknowledge the receipt of your two cables<sup>1</sup> dated April 6, forwarded hence to San Salvador, and read at Corinto, upon my arrival there on 9th instant. Copy of translation please find herewith. Since my arrival here I have acted upon your instructions, but, owing to my own ill health, have only seen the minister of foreign affairs once, and will report hereafter. It is my intention to leave here on 17th instant, proceeding to San Juan del Norte, where I hope to meet the U. S. S. *Detroit* and to consult with her commander, should affairs at Bluefields continue serious. If it appears advisable I shall go there myself, although Consul Sorsby now being at Bluefields, and properly instructed, there may be no occasion to do so. The reputation of Colonel Torres can not well be worse, and I am thankful that the Department of State has not overlooked his previous record. On my arrival at San José I will report fully as to the subjects mentioned in your cablegram.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister*

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*Mr. Lane to Mr. Hay.*

No. 22.] LEGATION OF THE UNITED STATES OF AMERICA,  
San José, Costa Rica, April 16, 1899.

SIR: I have the honor to report the arrival at Limon yesterday afternoon of the U. S. S. *Detroit*.

Under instructions from Minister Merry I telegraphed Captain Dayton that "the minister expected to go on board the *Detroit* at Greytown April 20, important," and I have the captain's reply that he would be there on that date.

With the assurances, etc.,

RUFUS A. LANE,  
*Chargé d'Affaires ad interim.*

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*Mr. Hay to Mr. Merry.*

No. 217.] DEPARTMENT OF STATE,  
Washington, April 17, 1899.

SIR: With reference to the remonstrance of American merchants at Bluefields against being compelled to pay the Nicaraguan Government certain imports and other charges after they had paid the same to the insurgent authorities led by General Reyes, and with reference to the refusal of our consul, Mr. M. J. Clancy, to appear and testify before the court of inquiry, you are instructed:

1. That this Government will not lend its countenance or support as against such second payment to any Americans, if any such there be, who have freely and voluntarily aided or abetted in any manner the said insurrection.

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<sup>1</sup> Printed ante.

2. But all Americans who made such payment to the insurgent authorities under duress of person or property, or under intimidations amounting to coercion, are entitled, if second payments are demanded by the Nicaraguan Government, to make such payments under protest. Such payment under protest does not prejudice in any manner the legal rights of the Nicaraguan Government nor those of the American merchants. Its effect is merely, notwithstanding such second payments, to reserve to the parties making them their legal rights, and afterwards to demand the refundment of the moneys so paid, if they were illegally exacted. This Government will therefore sustain said American citizens in their attitude and claim of the right of protest while making such second payments. If there are any such Americans who have made them and have refrained from protesting against the same because they have been required by the Nicaraguan Government to make them without protest, this Government will, for the purpose of this controversy, treat such second payments as having been actually made under protest, and will consider the ultimate rights of the parties, whatever they may be, as unimpaired by reason of such payments exacted and made without protest.

This Government has not prejudged the rights of the parties, but, pending their consideration and awaiting a full investigation and knowledge of the facts, it withholds its decision until such a time as it can be rendered with due regard to the mutual rights and interests of the parties, to the principles of public law, and to the usages of civilized nations. It is actuated by the desire to reach, if possible, a solution of the question consistent at once with the feelings of friendship existing between the two Governments and with the dictates of international justice.

3. The Department has received a cablegram (copy inclosed) from our consul, W. S. Sorsby, asking whether our consular agent, M. J. Clancy, at Bluefields, "must appear before the court of inquiry now sitting here and testify regarding Americans in the late revolution and political events generally relating thereto," and asking whether his refusal to do so is approved.

Article X of the treaty of 1867 between the United States and Nicaragua provides that "the diplomatic agents and consuls of the United States in Nicaragua shall enjoy according to the strictest reciprocity whatever privileges, exemptions, and immunities are or may be granted in the Republic of Nicaragua to the diplomatic agents and consuls of the most favored nations."

You will determine what immunities, exemptions, and privileges are accorded by Nicaragua by treaty with Spain, Great Britain, or any other nation, to the consuls of such nation; and whatever exemption, privilege, and immunity they are accorded you will claim for Mr. Clancy.

As a general rule of international law it may be observed that in the absence of treaty stipulation consuls are not, as such and in general, entitled to all immunities which attach to a diplomatic representative. The consular archives are, however, inviolable under all circumstances. They can neither be invaded nor searched, nor seized by the officers of justice or other authority; but the personal books and papers of the consul are not entitled to such immunity. He can not be required to divulge information which came to him in his official capacity, for that is the exclusive property of his Government; but as to matters which come within his knowledge or observation

in his mere capacity as an individual he is not privileged from testifying as a witness. If a consul should himself participate in the commission of crime or in setting on foot an insurrection, or should observe others doing so, against the Government to which he is accredited, he could not be shielded from testifying, according to the forms of the local law, as to the facts thus acquired and within his personal knowledge.

On the one hand, he is entitled to enjoy all the privileges necessary to enable him to discharge the duties of his office; on the other hand, he is not to refuse to testify, under the circumstances and limitations above stated, simply because the facts to which he is required to testify might be of a political character, or simply because his testimony might have a tendency to implicate American citizens or others in the commission of unlawful acts.

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*Mr. Sorsby to Mr. Hay.*

[Telegram.]

BLUEFIELDS, NICARAGUA, *April 7.*  
(Forwarded from Mobile, Ala., April 13, 1899.)

Arrived Bluefields February 5. Sent a cable via Limon, Costa Rica, March 31, and to-day send from here the following cables, both to the Department and to Minister Merry at San Salvador, but being apprehensive that both messages will be delayed or mutilated, or both, I send this confirmation to Mobile to be transmitted by telegraph. The extraordinary situation here justifies this action:

"Martial law continues. Must Clancy appear before court of inquiry now sitting here and testify regarding Americans in late revolution and political events generally relating thereto? I request that Clancy's refusal to appear be approved. American merchants here agree to repay, under protest, duties due and paid to revolutionists who were holders of customs bonds while the latter were in absolute power and control here and who threatened merchants if they refused, but Nicaraguan Government now demands repayment without protest whatever, threatening persecution in form of heavy fines and summary proceedings if demand is not immediately complied with. After full examination I approve merchants' attitude, and if the Department approves I request that man-of-war be sent immediately."

WILLIAM B. SORSBY,  
*United States Consul.*

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*Mr. Hay to Mr. Sorsby.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, April 17, 1899.*

Claim all exemptions, privileges, and immunities accorded by Nicaragua by treaty to consuls of any other most favored foreign nation. If none such are accorded by treaty between Nicaragua and other foreign State, Clancy may testify touching facts which came to his knowledge in his merely personal and unofficial capacity, but not as to facts or communications obtained in his capacity as consular agent. If he so testifies, report to the Department copy of questions and answers.

HAY.

*Mr. Merry to Mr. Hay.*

No. 237.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, April 23, 1899.*

SIR: I have the honor to advise my arrival here on the 21st instant at 1 p. m. on board the U. S. S. *Detroit*, accompanied by the Hon. Joaquin Sanson, minister of foreign affairs of the Republic of Nicaragua. Deeming it good policy to permit Mr. Sanson to communicate with the local authorities prior to my landing, I did not accompany him on shore, but sent for Mr. Clancy, the United States consular agent here, to come on board at once.

He arrived at 6 p. m. and remained all night; gave Commander Dayton, Consul Sorsby, and myself latest information relating to the condition of matters at Bluefields. In company with Commander Dayton, the United States consul, and consular agent, I landed yesterday, the 22d instant, and, accompanied by the former, paid an official visit to Colonel Torres, who is, as you are aware, here as the "executive delegate" of President Zelaya. We were pleasantly received by Colonel Torres and General Estrada, after which Commander Dayton returned on board to await further information. I found the five American mercantile houses with closed doors and the American flag hoisted over them. At 8 p. m. the Government band serenaded me at the hotel, Colonel Torres having advised me thereof when he returned my official call. The telegrams and dispatches of Consul Sorsby have informed you of events to date, and I shall have the further honor of addressing you thereon by this mail.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

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*Mr. Merry to Mr. Hay.*

[Telegram.]

BLUEFIELDS (via New Orleans), *April 23, 1899.*

Respectfully suggest refusal duplicate payments customs duties to Government of Nicaragua here. Revolutionary Government was certainly de facto. This action necessary protection American interests and influence.

Send instructions by cable. Please communicate copy Navy Department.

MERRY,  
DAYTON, *Commanding Detroit.*

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*Mr. Merry to Mr. Hay.*

No. 239.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, April 23, 1899.*

SIR: I have the honor to confirm my cable of this date sent you via Nicaragua lines to San Juan del Sur, and also via New Orleans steamer to be forwarded thence, reading translated: "Respectfully suggest refusal duplicate payments customs duties to Government of



Nicaragua here. Revolutionary Government was certainly *de facto*. This action necessary protection American interests and influence. Send instructions by cable. Please communicate Navy Department." In the above cable Commander Dayton, of the U. S. S. *Detroit*, joins, and hence requests that Navy Department be advised. It becomes my duty to present my reason for this action. Upon my arrival here I was of opinion that the second payment of duties here should be made under written protest accompanying each receipt, properly authenticated. I called a private meeting of the five American mercantile firms now with closed doors and said to them substantially that the United States Government has sent a war ship here to aid me in the protection of American interests; that there is an impression that the late governor intendente of this department had the general sympathy of the foreigners here and possibly the active aid of some of them; that if their "skirts are not clean" they should pay the duties again, under protest, and regard the loss as the result of their violation of their neutral obligations; that the British vice-consul has already paid the duties alluded to a second time, amounting to about \$1,200, without protest, owing to the known fact that he had aided the revolutionists with merchandise, etc. I cautioned them that if their complicity is established it will place me in the embarrassing position of having to abandon their cause.

The reply of one and all was that they had nothing to fear from any fair investigation; that they had not aided the Reyes movement, although three of them acknowledged that some of their employees had left their service without their consent and joined him, but that not one of them has been again employed; that they had no control over their movements. They further stated that the present conditions are intolerable, and if they received no protection it would be both wise and just to so inform them in order that they can close out their interests and leave the country. Some had offered to pay under protest and acceptance had been refused, since which they have been obliged by threats of attachment to close their stores, and if forced by law as well as international usage to pay duties the second time, they preferred to refuse and to incur the consequences. When asserting this they were aware that the merchandise of one of them (Weil & Co.) had been seized at the custom-house, by order of Colonel Torres, in part payment of amount again claimed. They had fair cause to presume that they will be treated in same manner. They have an invested and very active capital of about two and one-half millions, gold, with a business that will increase if not hampered by unjust exactions. The result of the interview was the cable sent you to-day in which Commander Dayton joined as per arrangement with me. En route from San Juan del Norte to this port a careful examination of authorities (inclosure No. 1) appears to fully justify this action. General Reyes had undisputed possession of the custom-house, Government public buildings, troops and war munitions, police force, post-office, telegraph lines, and of the only Government steamer on this coast; in fact, of every Government agency. Were anything else needed to prove a *de facto* government the refusal of General Estrada to take possession when General Reyes offered to turn it over on February 3 because of some unacceptable conditions, proves that Reyes remained in power by the refusal of Estrada to act, and by his preference for an asylum in the United States consular agency during the period of Reyes's continued occupancy. There was no other government between February 3 and 25, 1899. The governmental functions were actually exercised by the same individual, including the official

who received the customs duties now alleged by Torres as having been illegally paid. The purpose of Torres (formerly a butcher by occupation) is evidently, as he expressed it, to "castigar los extranjeros" (castigate the foreigners), and to him this appears a work both of love and obligation. What effect the interposition of Mr. Sanson will have has not fully developed, but I am under impression that his coming here was for the double purpose of producing the appearance of a desire to conciliate the United States Government and to checkmate my action if it proves unacceptable to President Zelaya. He is argumentative, but very agreeable to me, his politeness increasing with the complications. However, Torres, Estrada, and Mr. Sanson are but the agents of President Zelaya, executing his orders as they understand them, and without liberty of action. I shall have the honor to further address you soon, keeping you promptly advised of the situation.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure 1.]

MEMORANDUM OF AUTHORITIES ON SECOND PAYMENT OF DUTIES.

Wharton's Digest, vol. 1, p. 30, sec. 7: Cushing decision regarding de facto Government.

Woolsey International Law, p. 254: The new Government in every respect successor to the old.

Snow's cases on International Law, p. 364: The *Castine* case, also p. 383, same case.

Glenn's International Law, p. 197, sec. 147: Prince of Hesse-Cassel case.

P. S.—Since writing the accompanying dispatch, I am notified that all the American firms here have had their merchandise in the custom-house seized by order of Colonel Torres, on account of second payments for duties claimed as due.

W. L. M.

*Mr. Merry to Mr. Hay.*

No. 240.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, April 24, 1899.*

SIR: Having received a verbal request from the Hon. Joaquin Sanson, minister of foreign affairs of Nicaragua, that I should direct the hauling down of the United States ensigns now hoisted over the stores of citizens of the United States, closed owing to the seizure of their property, and desiring to do all in my power to avoid additional friction, I promised to consider the matter. Subsequently I became convinced that such action would aggravate the situation, and sent Señor Sanson the communication (inclosure No. 1) which I now have the honor to forward.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.]

*Mr. Merry to Mr. Sanson.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, April 24, 1899.*

SIR: Respectfully referring to our conversation on Saturday evening last, in relation to hauling down the American flag on the stores of the citizens of the

United States at Bluefields, I beg to state that while, as I then replied, disposed to do all in my power to decrease the friction now existing, subsequent consideration convinces me that such a request to American citizens would only increase the ill feeling which has resulted from the seizure of their property. The occasional use of the national ensign on the domicile or place of business in foreign countries is a courtesy allowed by all civilized governments, especially among the Republics of the American continent. It can not be properly claimed as a right except over legations and consulates, but long usage has sanctioned the practice. If I make no such request, the incident will attract no attention and will be forgotten in a short time.

I may properly add that I have myself such reverence for the ensign of my country, which I have hoisted in all parts of the world and never seen lowered, either on demand or request, that I should feel myself degraded were I to make such a suggestion. The man would be a recreant American that entertains the proposition that it shall be lowered, except with free will and loving reverence. So I respectfully suggest that your request be withdrawn as a courtesy to my Government and to myself. It gives me pleasure to assure you that I hope the time will never come when the flag of Nicaragua shall be deemed improper to hoist over a citizen of your Republic within the boundaries of the nation that I have the honor to represent.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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*Mr. Merry to Mr. Hay.*

No. 241.]

LEGATION OF THE UNITED STATES OF AMERICA,

*Bluefields, Nicaragua, April, 24, 1899.*

SIR: I have the honor herewith to forward the sworn evidence of Avo Kelting, esq., a German, employed by an American firm at this place. It needs no explanation, and proves how difficult it will be to obtain just treatment for the citizens of the United States at this place. The evidence which is being taken to prove the complicity of foreigners is such that no respectable court would admit: "I have heard it stated," "It is currently rumored," "I have been told," "I am informed," and even, "I have read in a New Orleans paper," are phrases which precede nearly every statement made, except where the witness denies complicity. I have made official request for a copy of this evidence, having had only opportunity to read the copy first made without time to examine it. I have been promised that Torres shall be returned to Managua soon, and shall insist upon this as a condition precedent to a friendly solution.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

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[Inclosure 1.]

*Mr. Kelting to Mr. Clancy.*

BLUEFIELDS, NICARAGUA, *April 20, 1899.*

DEAR SIR: Some time ago I called on General Estrada to hand to him a denouncement for lands. Colonel Torres happened to be with him, and after informing himself as to the nature of the document, and after I had told General Estrada that George D. Emery wanted to purchase lands outside of those denounced through the document in reference, Colonel Torres made the remark as follows:

"As far as the land you want to denounce is concerned, we will see about it sooner or later, but you can not buy the land you have in view. The Government will not agree to this transaction. It would be only to encourage you foreign filibusters in making trouble for the Government.

"We know perfectly well that all of you have been and will be working against

us. You want some foreign nation to take hold of the Mosquito Reservation. That is what Mr. Weil went to Washington for, and that is the reason you have precipitated General Reyes, who was a loyal man, but too weak to resist the flattering and promises of you foreign intruders, into a rebellion against the Government and made him get so debased as to agree with you people to give away either to the United States or to England this coast, a piece of Nicaragua, his native soil.

"If I were Yelaza I would make everyone of you get out of the country and would gladly see you ruined. We have the proofs that everyone of you had a hand in the revolution. We know that Mr. Spellman, who has always been and is our greatest enemy, has been aiding Reyes in the way of transporting troops on the *Yulu*; we know that he had men come down from the camps to join the rebel forces, and that he has been supporting Reyes otherwise and whenever he could."

Then General Estrada remarked to Colonel Torres that regards the *Yulu* having been placed at the disposition of General Reyes he did not believe this to be certain, that I had called on him while he was under American protection at the United States consulate and had asked his advice as to whether he thought it proper to resist General Reyes's demand for the *Yulu* or not.

Then Colonel Torres: "Of course these white-faced blonde-haired foreigners are smart. Mr. Spellman sent to you so as to be on the right side either way. We may not be quite as white as they are; we may have to a great extent of the Indian in us, but all the same we are quite as smart as they are. I see through Mr. Spellman's shrewdness in this case. He is no fool and I know his tricks, but that does not alter anything in the fact that he is an enemy of the Government and that he has been one of the principal conspirators in 1894 and now lately with Reyes the same."

When departing Colonel Torres's last words were: "Do not think because you foreign intruders are white and we, the Nicaraguans, the legal owners of this coast, are to some extent colored people, you will govern us. You will be sorry yet for having attempted to run us out of the country. This you will never succeed in doing; we will watch you now."

These expressions I remember distinctly as having been made by Torres; some are too vile to be put on paper and not fit to be translated or quoted.

I am perfectly familiar with the Spanish language.

Yours respectfully,

AVO KELTING.

Sworn to and subscribed in my presence this 24th day of April, 1899.

[SEAL.]

M. J. CLANCY,

*United States Consular Agent.*

#### MEMORANDUM.

Mr. Kelting is the bookkeeper and Spanish translator for George D. Emery, of Boston, Mass., who has a mahogany-cutting concession on the Atlantic coast of Nicaragua, with fifteen years to run. Mr. Kelting is a German citizen and a man of excellent reputation. Mr. Emery pays the Nicaraguan Government \$10,000 gold per annum bonus and \$1 on each mahogany log exported, amounting to over \$15,000 per annum exclusive of the bonus above stated, and gives permanent employment to about 150 Americans besides about 500 natives.

Respectfully,

W. L. M.

*Mr. Merry to Mr. Hay.*

No. 242.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, April 26, 1899.*

SIR: I inclose herewith (inclosure No. 1) copy of a letter addressed to General Reyes by the president of the Bluefields Board of Trade, his reply, and letter from the president of the board to me, testifying to the neutrality of the merchants here during the late revolt of General Reyes. There is no doubt that General Reyes did all in his power to enlist their aid, but they had little confidence in his success and generally held aloof from his movement. Had they done otherwise they might have accomplished his success, for, including the

Emery Mahogany Concessionary Company, they could have furnished him over 200 Americans, in addition to the 54 foreigners that prepared to aid him, of whom 28 were Americans, and these men without permanent interests here. Mr. Peterson, president of the Board of Trade, is a Norwegian by birth, but a naturalized American, and appears to be a reliable man.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure.]

*Mr. Peterson to Mr. Merry.*

BLUEFIELDS, Nicaragua, April 24, 1899.

DEAR SIR: As president of the Chamber of Commerce, composed of the leading merchants of Bluefields and coast towns, I respectfully submit for your consideration a copy of a letter dated December 10, 1898, which said board of commerce directed to J. P. Reyes, general intendente of the Atlantic coast. Also attached you will find his original reply, with a translation of same.

With Mr. Henry Springer, acting as interpreter, I presented this letter on the 10th of December, and, during our conversation with Reyes, he stated that in event of President Zelaya compelling him to enforce the increase of duties on this coast he would resign. I assured him it was our desire to see him remain in his official position; that he knew the coast and its needs, and that his influence with the President would do more than ours in getting the matter arranged, but that we did not expect, nor was it our desire, that he oppose the President to such extent as would cause him to resign or lose his position.

The general asked what assistance he could expect from merchants if he took a stand against the President. My reply was that the merchants here were foreigners, and as such could give no assistance whatsoever in any actual resistance against the Government.

I submit this as evidence that merchants of this town are in no manner guilty of accusations that tend to show they encouraged or promoted the late revolution.

Yours, respectfully,

J. A. PETERSON,  
*President of the Board of Trade of Bluefields.*  
HENRY F. SPRINGER.

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, April 26, 1899.*

Sworn to and subscribed in my presence by Henry F. Springer and J. A. Peterson.  
[SEAL.] M. J. CLANCY, *Consular Agent.*

[Subinclosure 1.]

*Bluefields Board of Trade to General Reyes.*

BLUEFIELDS, NICARAGUA, December 10, 1898.

DEAR SIR: The board of trade desire on behalf of the community to tender you their thanks for the firm stand you have taken in their behalf regarding the tariff to be enforced on January 1 next, and trust your efforts, combined with ours, may result in its reconsideration on the part of the Supreme Government, and that the tariff of 1883 may be permitted to remain in force to assist you in your progressive works on this coast.

We earnestly ask of you in any event not to carry out your determination to leave the head of the Government here, but to remain at the helm to continue, as you have always done, working for the welfare of the people.

BLUEFIELDS BOARD OF TRADE.

[Subinclosure 2.—Translation.]

*General Reyes to Bluefields Board of Trade.*

BLUEFIELDS, December 10, 1898.

GENTLEMEN: I received your attentive dispatch of to-day's date.

You can rest assured that I will do all in my power that the tariff of September 1 is not declared in force in this littoral, and that I shall spare no efforts in securing this.

I highly appreciate the wishes you cherish of seeing me remain here, and it will be a pleasure to me to prove myself worthy of these acts of good government.

Expressing to you my sincerest consideration, I remain, your attentive servant,

J. P. REYES.

*Mr. Merry to Mr. Hay.*

No. 243.] LEGATION OF THE UNITED STATES OF AMERICA,  
Bluefields, Nicaragua, April 30, 1899.

SIR: I have the honor to inclose herewith an agreement made by me with Mr. Sanson, Nicaraguan minister of foreign affairs, in relation to the contested duties at custom-house here. The acceptance thereof by the British consul will make it effective, and he is hourly expected here from San Juan del Norte. The suggestion of this arrangement was presented by Mr. Spellman, one of the interested parties, and accepted by Mr. Sanson, after consultation with Colonel Torres and General Estrada, governor intendente of the Mosquito Reservation, entitled the "Department of Zelaya." You will observe that the terms are distinctly more favorable to the merchants than payment under protest to the Nicaraguan authorities, who seldom pay any claims, except under duress. I inclose a letter I have addressed to the merchants in this connection (inclosure No. 2). I have not found it easy to satisfy them all. They desire aggressive action, aided by military power, which is not permissible under present conditions. One asks of what service is "a war ship that does nothing," and another wants to know what they are to do after the *Detroit* and the writer leave Bluefields. They have many complaints of long standing against the Zelaya Government which they desire combined with the special matter which called me here, a proposition obviously impolitic. Some of their complaints appear just, and are worthy the attention of the Department, when properly presented. They now fear persecution and prosecution after this particular difficulty has been settled, and with some reason. On this account I respectfully refer to my No. 238 of 23d instant and renew recommendation therein made. It is the easiest and most economical method of solving the naval question here, in my opinion.

Before signing this agreement I have awaited in vain your reply to my cable of the 23d instant, and I have at times consulted with Captain Dayton, of the *Detroit*, as to the advisability of going to Limon to cable the Department thence. But cables from Limon pass through Nicaragua territory before reaching San Juan del Sur; consequently, if it is the purpose of the Nicaraguan authorities to delay or mutilate my cables, that line is not reliable, and it would be necessary to proceed to Colon, 280 miles distant, which would take the *Detroit* from here probably seven days, as she would have to coal and await her turn for that purpose at some steamship wharf, temporarily vacant. I have not felt that it is wise to do this. However, the opportune arrival of H. B. M. S. *Proserpine*, ordered here from Barbados,

relieves the situation, when she returns from San Juan del Norte, where she has gone for the British consul. The Nicaraguan authorities at Rama, I am credibly informed, recently flogged a British subject for alleged complicity in the late revolt, and this will receive immediate attention from the British consul. The "court-martial" continues taking evidence daily, with closed doors, and I am informed its action will also be investigated by the same official. I have plainly stated to Mr. Sanson that I am under the impression that Colonel Torres is closing the wires against me, and seriously entertains the idea of making official protest, leaving the British ship here while I proceed to a friendly port, where I can be allowed to communicate with my Government; but he assured me on his honor that the lines have been down continuously.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure 1.—Translation.]

*Agreement between Mr. Merry and Mr. Sanson.*

The undersigned, Joaquin Sanson, minister of foreign affairs of Nicaragua, and William L. Merry, envoy extraordinary and minister plenipotentiary of the United States of America, desiring to find a friendly solution which will put an end to the difficulties which have lately presented themselves between the fiscal authorities of the Republic and some American merchants by reason of the occurrences which have taken place on the Atlantic coast in relation to the payment of duties which they made during the month of February, 1899, to the rebel chiefs who operated here, and which the Government has not wanted to recognize as legitimate, have agreed to celebrate the following agreement:

1. The merchants, Messrs. Samuel Weil & Co., The New Orleans and Central American Trading Company, Allen & Caldwell, J. A. Peterson, S. D. Spellman, and Orr & Laubenheimer, will deposit in the consulate of Her Britannic Majesty the value claimed as owing to the fiscal authorities and which they object to pay directly by reason of having once paid to the employees of the revolutionary organization of General Reyes after the 3d and before the 25th of February, 1899.
2. The fiscal authorities on their part will rescind the provisions of "embargo" on merchandise which they had decreed to make effective the payment aforesaid.
3. The difficulty overcome, once that it has been discussed before whom it may appertain, and as a last resort by the secretary of foreign relations of Nicaragua and the Department of State of the United States, the deposit shall be paid by Her Britannic Majesty's consul to the authorities of the custom-house if it is decided that Government has had the right to demand the payment claimed, or to its owners, the American merchants, if it is decided that the payment made to the revolutionists of Bluefields was legal for the reason that they pretend that the revolutionary organization of General Reyes, between February 3 and 25, 1899, was the government de facto.
4. If the Government should collect the duties which are now charged to the merchants owing, it can not make any charge for fines in regard to the default in paying the demand.
5. The undersigned, in case that the present matter results in diplomatic action, will request their respective Governments to the end that it may be decided within four months.
6. The present convention does not diminish or alter in any manner the rights of the parties which they may have in other matters, and has been prompted entirely by the spirit of fraternity which invites our respective peoples and Governments.

Signed at Bluefields, Nicaragua, in duplicate, on the 29th day of April, 1899.

JOAQUIN SANSON,  
WILLIAM LAWRENCE MERRY.

*Amounts claimed by the customs authorities of Nicaragua, above alluded to.*

J. A. Peterson .....	\$2, 233. 43
Samuel Weil & Co. ....	2, 731. 38
Allen & Caldwell .....	3, 347. 64
The New Orleans and Central American Trading Company .....	6, 725. 35
Orr & Laubenheimer .....	3, 313. 46
Samuel D. Spellman .....	1, 332. 07

Total ..... 19, 673. 33

Nicaraguan currency, gold value about one-third.

[Inclosure.<sup>2</sup>]

*Mr. Merry to Messrs. Samuel Weil & Co., J. A. Peterson, Allen & Caldwell, The New Orleans and Central American Trading Company, S. D. Spellman, and Orr & Laubenheimer, Bluefields.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, April 30, 1899.*

GENTLEMEN: After mature deliberation, I have signed the agreement with Señor Don Joaquín Sansón, minister of foreign relations of Nicaragua, arranging for the payment of the duties claimed by the customs authorities as due from February 3 to 25, 1899. In reaching this decision I have been guided by what I conceive my duty and the presumed policy of the Government, since I have not been able to obtain definite instructions by cable. The arrangement gives you better terms than you were willing to accept, i. e., payment under protest to the Nicaraguan customs authorities instead of payment in trust to Her Britannic Majesty's consul until our Government decides as to whether you were correct in paying these duties to the Reyes revolutionary government, which can be justified only on the basis that it was a government de facto, of which I have no doubt and which I do not doubt you can prove if you jointly produce the evidence upon which my opinion is founded and which I shall have the pleasure in forwarding to our Government. Your merchandise is released and no fines can be attached to these invoices by reason of delay in payment. We jointly request our respective governments to decide the matter within four months; we could not make this obligatory. The agreement appears to me equitable and I have no doubt will save the money paid in trust, if you will aid the consular officers and myself in obtaining the abundant proofs of a government de facto in legal form. So far as I understand the situation, I was instructed to come here to settle this difficulty, but it is also my duty to entertain any just complaints in regard to infringement upon your rights, present and past. It is of no advantage for each merchant to state individual grievances verbally, producing no proofs, although the assertions may be entirely correct. In respect to the nonpayment of the Mosquito script, the increase of duties beyond the 20 per cent ad valorem, which you claim the Nicaraguan Government promised when it assumed entire sovereignty over the Mosquito Reservation, should not be done; and in respect to the numerous complaints you make against the Nicaraguan authorities; these should be presented in a tangible and attested form, upon receipt of which it will be my duty and pleasure to present them to our Government, urging action to protect your interests, if your complaints appear well founded. I shall not leave here until your present difficulties are over, and I may promise the same in respect to the naval vessel now present.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister,*



*Mr. Hay to Mr. Merry.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, May 2, 1899.

Full instructions regarding duplicate payments mailed April 17. Urge equities in favor of merchants at least until the two Governments can reach an understanding.

HAY.

*Mr. Merry to Mr. Hay.*

No. 245.]

LEGATION OF THE UNITED STATES,  
Bluefields, Nicaragua, May 4, 1899.

SIR: The British cruiser *Proserpine* having arrived here yesterday with the English consul from San Juan del Norte on board, and her commander having promised to remain here until the return of the *Detroit*, I have arranged with Commander Dayton to leave here at midnight, calling at San Juan del Norte early in the morning to land Consul Sorsby, and proceed to Limon, where Commander Dayton and myself can cable the Departments with hope of reply, which we can not entertain here, as I am confident Colonel Torres prevents it. I beg to inclose copy of protest which I shall hand him when I call to announce my departure. Commander Marx, of the *Proserpine*, informs me that while at Limon two days since the British vice-consul and some British citizens came on board to suggest his return, as trouble is expected when President Yglesias arrives. This and the fact that, for the present, I can do no more here will probably induce my return to Costa Rica for the present. On her return here the *Detroit* will call at San Juan del Norte and take Consul Sorsby on board for this port. The merchants here request his being accorded permission to visit Washington for a short time, twenty to thirty days, and I shall include this request in my cable from Limon. It is possible that the *Detroit* may have to go to Colon to coal, in which case I shall repeat cable thence, lest it should be mutilated or delayed after passing the Costa Rica frontier to San Juan del Sur. Mr. Sanson, minister of foreign affairs, left for Managua this morning, and assured me that Colonel Torres will follow on the 14th instant. But as he promised that he should go with him I have not full reliance on this last assurance. However, as Colonel Torres will soon have all his "evidence" complete he will desire to take it with him, and so will no doubt leave here some time this month. There will then in all probability be an interval of quiet until the results of the "court-martial" are apparent through prosecutions founded on Colonel Torres's work at Bluefields.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
United States Minister.

[Inclosure.]

*Mr. Merry to Colonel Torres.*

LEGATION OF THE UNITED STATES,  
Bluefields, Nicaragua, May 4, 1899.

After a stay of thirteen days at Bluefields I find myself and Commander Dayton, U. S. S. *Detroit*, unable to communicate with our Government over your tele-

graphic lines, and am consequently obliged to proceed to another port, where I shall be permitted to do so. During these thirteen days doubtless your lines have been inoperative a part of the time, but that this has not been the case all the time is proven by the fact that yourself and other parties have repeatedly received messages from Managua, Guatemala, Honduras, and elsewhere. To the treatment accorded my Government in this matter, both unfriendly and wanting in the usual courtesy, I respectfully enter my protest.

After communicating with my Government and obtaining the necessary instructions, the U. S. S. *Detroit* will return to her post here, leaving American interests meanwhile under protection of H. B. M. S. *Proserpine*.

I have, etc.,

WILLIAM LAWRENCE MERRY,  
*Envoy Extraordinary and Minister Plenipotentiary of the United States.*

*Mr. Merry to Mr. Hay.*

[Telegram.]

LIMON, COSTA RICA, *May 5, 1899.*

Entered into arrangement Mosquito Territory customs duties by payment to British consul, subject to decision the Government of the United States and the Nicaraguan Government, as to de facto government, of which you will have unquestionable proof. Request leave of absence one month, consul of the United States at San Juan del Norte to make a report to Department of State. Reply by telegraph San José. Mosquito Territory quiet at present. British war ship probably remains until ours has returned.

MERRY.

*Mr. Hay to Mr. Merry.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 6, 1899.*

Arrangement approved, subject to determination of law and equity. Leave of absence granted.

HAY.

*Mr. Hay to Mr. Merry.*

No. 228.]

DEPARTMENT OF STATE,  
*Washington, May 6, 1899.*

SIR: In a letter dated the 4th instant the Secretary of the Navy, in acknowledging the receipt of a copy of the joint telegram from you and Captain Dayton, of the U. S. S. *Detroit*, dated Bluefields, April 23, says:

In this connection I have the honor to forward herewith copies of two letters from the commanding officer of the *Detroit*, in the first of which he reports having sent a telegram in cipher on April 22. This telegram reports the arrival of the *Detroit* at Bluefields with the minister, Merry, on board, but it was never received by telegraph at the Navy Department, the mail confirmation being the first indication which this Department had that it was sent.

It appears from the foregoing that the opinion of this Department, as expressed in its letter of yesterday's date, that telegrams of this Government are not properly forwarded in Nicaragua, is probably in accordance with the facts.

Captain Dayton states that no objection was made by the Nicaraguan authorities to receiving and forwarding his telegram.

You will bring the matter to the attention of the Nicaraguan Government and insist on unrestricted telegraphic communication between yourself and this Department and between Captain Dayton and the Navy Department.

The joint telegram referred to is confirmed herewith.

I am, etc.,

JOHN HAY.

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*Mr. Merry to Mr. Hay.*

No. 248.]      LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, May 7, 1899.*

SIR: On arrival at Port Limon yesterday I cabled you as follows: "Entered into an arrangement Mosquito Territory customs duties by payment to British consul, subject to decision of the Government of the United States and the Nicaraguan Government, as to de facto government, of which you will have unquestionable proof. Request leave of absence one month, consul of the United States, San Juan del Norte, to make a report to the Department of State. Reply by telegraph to San José. Mosquito Territory quiet at present. British war ship probably remain until ours has returned." To which, twenty-four hours subsequently, I received the following answer: "Mosquito Territory arrangement approved, subject to determination of law and equity. Leave of absence granted." The last sentence I have cabled Commander Dayton, at Colon, to avoid the necessity for his calling at Limon en route northward, as I am anxious to have him relieve the *Proserpine* at Bluefields, soon as possible. I had said to Mr. Sanson that while Colonel Torres remains the port will have the protection of a war ship. He then assured me that Torres will leave for Managua on 14th, as his "court-martial" has nearly concluded its "evidence."

I beg to inclose herewith (inclosures Nos. 1 and 2) copies of my letter requesting the British consul, Mr. Bingham, to accept the trust, and his acceptance thereof. The clause No. 5 relating to request that the matter be settled within four months' time was put in the agreement at the request of the merchants, although I was not favorable thereto. I inclose herewith copy of letter (inclosure No. 3) handed me by the merchants of Bluefields, just prior to my departure. Before leaving a number of affidavits had been prepared, proving the de facto Government of Reyes between February 3 and 25. I urged them to carefully prepare these affidavits, to go forward by United States Consul Sorsby direct, or through this legation. Although insistent upon aggressive military action upon my arrival, they were apparently satisfied when I left, but, whether satisfied or not, I did not go to Bluefields to increase the friction or to settle the interminable Mosquito question with military power, although if American interests are to be regarded worthy of support, I respectfully suggest that it should be finally disposed of.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure 1.]

*Mr. Merry to Mr. Bingham, Her Britannic Majesty's consul at Bluefields.*LEGATION OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, May 3, 1899.*

SIR: Permit me, on behalf of the United States Government, to request you to receive in trust the amount of \$19,673.33, Nicaraguan currency, claimed from five American establishments here due to the customs authorities of Bluefields. The inclosed copy of agreement made between Hon. Joaquin Sanson and myself is self-explanatory. If we shall be able to prove, as I have no doubt we can, that the government of General Reyes, between the 3d and 25th of February, 1899, was the only effective and the de facto government in Bluefields, the amount will be, under this agreement, repaid to the merchants, who have already paid these duties once. We hold that to have refused payment to Reyes's government would have resulted in the seizure of their goods, with material injury to their business. That was sufficient duress then, as it is now, to force payment of duties. But it is not my province at this time to argue the case. I make this request on behalf of my Government and our citizens, that it may go on record as one more proof of the mutual good will now happily existing between our respective Governments, and with entire confidence in your acceptance.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure 2.]

*Mr. Bingham to Mr. Merry.*BRITISH CONSULATE, *Bluefields, May 4, 1899.*

SIR: I have the honor to acknowledge receipt of your communication, dated the 3d instant, in which you request me, on behalf of the United States Government, to receive on trust, in accordance with the terms of an agreement made between yourself and the minister of foreign affairs of Nicaragua, copy of which you inclosed me, the amount of \$19,673.33, Nicaraguan currency, claimed from certain American establishments in this city as due to the customs authorities of Bluefields.

I shall have much pleasure in accepting the trust with which you honor me.

I am, etc.,

H. F. BINGHAM,  
*Her Britannic Majesty's Consul.*

[Inclosure 3.]

*American merchants of Bluefields to Mr. Merry.*BLUEFIELDS, NICARAGUA, *May 4, 1899.*HON. WILLIAM LAWRENCE MERRY,  
*United States Minister to Central America.*

SIR: Your friends, the American business men of Bluefields, can not permit you to leave this port without an expression of their esteem and regard for the admirable manner and zeal you have shown in withstanding, under very trying circumstances, the tyranny of Nicaraguan officials.

We fully appreciate the situation, and the praiseworthy manner in which you have discharged the onerous and responsible duties appertaining to your position have won from us our full confidence and belief in the integrity of the entire proceedings.

We thank you for all the assistance rendered, and only those concerned can fully appreciate the relief sustained.

With best wishes,

J. W. PETERSEN.  
THE NEW ORLEANS AND CENTRAL AMERICAN TRADING CO.,  
Per JOS. W. BEER.  
ALLEN & CALDWELL.  
SAMUEL WEILL.  
SAM D. SPELLMAN.

*Mr. Hay to Mr. Merry.*

No. 230.]

DEPARTMENT OF STATE,  
Washington, May 8, 1899.

SIR: I have to acknowledge the receipt of your dispatch No. 240 of the 24th ultimo, reporting that the Nicaraguan minister for foreign affairs verbally requested you to order the hauling down of the American flags over the stores of American citizens in Bluefields, and that you declined to accede to his request.

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. In this view of the matter your action in declining to order the owners to remove the flags is approved by the Department.

I am, etc.,

JOHN HAY.

*Mr. Merry to Mr. Hay.*

No. 251.]

LEGATION OF THE UNITED STATES OF AMERICA,  
San José, Costa Rica, May 9, 1899.

SIR: I have the honor to inclose herewith the list of parties organized at Bluefields for the purpose of aiding the revolt of General Reyes. I regret that it is not complete, as there were in all 42 returned to New Orleans on steamship *Condor*. I was informed that the Americans numbered 28. I am under the impression that some of the missing names were not registered by anyone in Bluefields, and the parties themselves would not be likely to furnish them willingly. I shall write to Mr. Clancy, consular agent at Bluefields, to see if the local Government will furnish him a complete list of the 42 passports issued. The inclosed list I was furnished by Mr. Consul Sorsby.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
United States Minister.

[Inclosure.]

*List of "Rough Riders" aiding General Reyes at Bluefields, Nicaragua, between February 3 and 25, 1899.*

J. M. Boate, American.  
E. S. Beale, American.  
J. S. Fosgard, American.  
Thos. L. Frey, American.  
E. C. Henrotin, American.  
Jno. Harlan, American.  
J. M. Harper, American.  
Geo. H. Haymond, American.  
Jno. Hay, American.  
Jas. C. Kennedy, American.  
David R. Lyons, American.  
E. L. Newman, American.  
Alex. F. Tarin, American.

Jno. Teal, American.  
Bert Umstead, American.  
Isaac Vincent, American.  
Geo. Winchester, American.  
Jack Martin, American.  
Klein, Austrian.  
A. K. Silva, Cuban.  
Henry Carlsonson, Swede.  
Lorenzo Martin, Swede.  
Chapman, English.  
E. G. Sturidge, Jamaican.  
H. M. Vase, Jamaican.

*Mr. Merry to Mr. Hay.*

No. 252.]

SAN JOSÉ, COSTA RICA, *May 9, 1899.*

SIR: Respectfully requesting reference to your No. 217, dated April 17, I desire to state that before its receipt I had telegraphed from Managua to Mr. Sorsby, at Bluefields, supporting his decision as to refusal to testify before the Torres court-martial. Three days prior to my departure from Bluefields the dispatch reached me, when the matter had already been dropped by General Torres.

Although aware that within the limitations explained in your instruction consular officers might be required to testify before the civil courts of the country to which they are accredited, I arrived at the conclusion that such evidence could not be properly given before a court-martial. The English vice-consul, taking the same ground, appeared, and after giving his name and address, refused to testify without the order of his superior, who has supported him. I was also influenced by the desire to avoid a dangerous precedent. Martial law is often declared in the Spanish-American Republics during the time of peace, as at Bluefields, for political purposes. If these military courts are authorized to demand the presence of our consular officers as witnesses there is no limit to the possibility of abuse resulting therefrom, as no restriction will be placed by them upon the information they will ask for, and the privileged consular information will thus be accessible to them. In the case of Mr. Clancy it was doubly dangerous, because, not understanding Spanish, he would have no means of knowing if his evidence was correctly translated. Instances have occurred recently at Bluefields where the hired Government translator tried to have recorded what the foreign witness had not stated, but, the witness understanding Spanish, he was promptly corrected and reprimanded by the witness. The matter having been practically closed, and no demand made upon me for consular evidence after my arrival at Bluefields, the precedent is now established that before courts-martial in Central America ministers and consular officers need not testify—a position which I respectfully suggest may be of importance hereafter. Had I received your No. 217, dated April 17, in time, I should, of course, have strictly obeyed the instruction.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

*Mr. Merry to Mr. Hay.*

No. 288.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, July 25, 1899.*

SIR: As supplementary to my No. 251, of May 9, I have the honor to inclose herewith a complete list of all Europeans and Americans sent away from Bluefields under arrangement made by Commander Symonds, U. S. N., and Captain Burr, H. B. M. N., with General Reuling, Nicaraguan army, after the Reyes revolt in March last. A copy of their names is kept at this legation for future reference.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure.]

*List of Americans and Europeans sent from Bluefields to New Orleans and Mobile under arrangement made by General Reuling, Nicaraguan army, and Commander Symonds, U. S. S. Marietta, and Commander Burr, H. B. M. S. Intrepid, March, 1899.*

*American.*—Edward Henrotin, Isaac H. Vincent, Ogden S. Beale, Thos. D. Frey, John Hay, E. S. Newman, O. L. Simmons, C. G. Ausburn, D. C. Laws, jr., Howard White, P. F. Connors, J. T. Teel, J. T. Floyd, J. M. Beale, D. R. Lyons, J. M. Harpen, J. A. Harland, J. H. Cutting, T. A. Wallace, B. D. Garrison, T. J. Whalen, A. L. Chapman, Alex. F. Tarin, James C. Kennedy, J. H. Hosgard, Geo. H. Haymond, Geo. W. Winchester, W. E. Payne, R. M. Hudson, J. C. Coultoen, M. J. O'Brien, Dan Crimins.

*Norwegian.*—Martin Lorentzson, Moritz Tagon, Henry Carlson, G. W. Henson, John Zeitz, Robert Roiley.

*Russian.*—J. Herling.

*English.*—F. W. Chapman, Dan'l Fisher, Edward G. Sturidge, H. H. Vojs, Jno. Thompson, Chas. A. Campbell, Fred. H. Cornell.

*German.*—Jack Martin.

*Dane.*—H. P. Hanson.

*Cuban.*—A. R. Silver.

*Austrian.*—H. Klien.

*Creole.*—Colored boy.

### COPYRIGHT IN COSTA RICA.

*Mr. Merry to Mr. Hay.*

No. 305.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, August 30, 1899.*

SIR: I have the honor to forward herewith decree (inclosure No. 1) to be published on September 4 by the Government of Costa Rica, establishing international copyright between the Republic and the United States. When proclamation is made at Washington will you kindly send two copies thereof to this legation. As the decree refers to the preexisting law on that subject, I also forward a copy of the Official Gazette,<sup>1</sup> dated June 30, 1896 (inclosure No. 2), for the further information of the Department of State.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure—Translation.]

*Rafael Yglesias, Constitutional President of the Republic of Costa Rica.*

Inasmuch as the Federal law of the United States of North America guarantees to foreigners the rights of literary ownership that the laws of that Republic conceded to its citizens, on the condition that the nation of such foreigners declares equal advantages to the citizens of North America;

In view of the action taken by the honorable envoy extraordinary and minister plenipotentiary of the United States in Costa Rica that there be made effective in the Republic the reciprocity assigned by the American law, and in view of the final article of the law of June 26, 1896, regarding literary proprietorship, which provides a condition identical with that established by the law of the United States, article —, single, decrees:

From the 4th of September of the present year the North American citizen residing outside of Costa Rica shall enjoy in this Republic the rights of literary

<sup>1</sup> Not printed.

ownership that the law referred to of June 26 establishes, on the understanding that on that date a similar order will have been given by the United States of North America with respect to the Costa Rican citizens who do not reside in that country.

Given in the national palace in San José, the 26th day of August, 1899.

RAFAEL YGLESIAS.

JUSTO A. FACIO,

*Subsecretary of State in the Department of Foreign Relations.*

*Mr. Merry to Mr. Hay.*

No. 310.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, September 7, 1899.*

SIR: I have the honor to advise that the decree of the Government of Costa Rica, in relation to reciprocity in international copyright, copy and translation of which accompanied my No. 305 of August 30, was published on September 4 in the Official Gazette at this capital, as becoming effective on the 1st of November, 1899.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

*Mr. Adee to Mr. Merry.*

No. 266.] DEPARTMENT OF STATE,  
*Washington, September 15, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 305 of the 30th ultimo, with which you forward a decree which was to be published on September 4 by the Government of Costa Rica establishing international copyright between that Republic and the United States.

It appears from the text of this decree, dated August 26, 1899, that "in view of the final article of the law of June 26, 1896, regarding literary proprietorship which provides a condition identical with that established by the law of the United States" it is decreed that "from the 4th of September of the present year the North American citizens residing outside of Costa Rica shall enjoy in this Republic the rights of literary ownership that the law referred to of June 26 establishes, on the understanding that on that date a similar order will have been given by the Government of the United States of North America with respect to the Costa Rican citizens who do not reside in that country."

Did this decree stand alone it would not fulfill the first condition established by the copyright law of the United States, act of March 3, 1891, to wit, that the act shall apply to the citizens or subjects of a foreign state or nation "when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens." This condition requires the President to ascertain the actual existence in the foreign state of law or regulation according to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of such foreign state. It does not authorize the President to enter into reciprocal or conditional negotiation with such foreign state to the end of establishing equivalence of treatment in the two countries, which appears to be the purpose invited by the decree you now send.



Negotiations with other governments in the past looking to the concession to their citizens or subjects of copyright privileges in the United States, by virtue of a proclamation of the President, in accordance with the terms of the act of March 3, 1891, have in several instances been complicated by the apparent desire of the other party to enter into an especial reciprocal engagement whereby the concessions granted by each should be in consideration for like concession similarly granted by the other. It was not until the misunderstanding in this regard had been removed and this Government had obtained from the foreign Government an explicit declaration that its own law permitted to citizens of the United States of America the benefit of copyright on the same basis as its own citizens that the President found it possible to issue his proclamation.

Turning from the Costa Rican decree of August 26 to the Costa Rican copyright act of June 26, 1896 (not July 26, 1895, as erroneously translated by you), the final article is found to read thus:

Foreigners residing outside of the country shall enjoy in Costa Rica the same rights which this law establishes for natives of the country and for foreigners residing in the Republic, provided that the laws of their own nation grant equal privileges to Costa Ricans.

This statutory provision would appear to enable the Government of the United States to act independently of the condition or so-called understanding (*inteligencia*) that the Government of the United States of America shall, upon the 4th of September of the present year, issue a similar order with respect to Costa Rican citizens not residing in the United States.

As above explained, the act of March 3, 1891, does not contemplate entrance into a reciprocal engagement of this character, but the final section of the Costa Rican act of June 26, 1896, might, for the purpose of our act of March 3, 1891, be assumed to be communicated to this Government by that of Costa Rica through the reference contained in the decree you now transmit, and thereby to be tantamount to a declaration on the part of that Government that Costa Rica "permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens."

This assumption is the more convenient inasmuch as the law of the United States draws no distinction between the alien residing in the United States and an alien not residing in the United States. To take the Costa Rican law and later decree conjointly as the basis of the President's action might serve to remove the limitation which the text of the decree appears to assign to the enjoyment by American citizens of the privileges of copyright in Costa Rica. Were the decree to be accepted as the sole basis it would limit the enjoyment of copyright to American citizens residing outside of Costa Rica, and would apparently exclude American citizens residing in Costa Rica, which is obviously not its intent.

To understand the true right of American citizens in the matter it is necessary to go back to the Costa Rican law of June 26, 1896, which on examination appears to contain no qualification or restriction of the right of registry and copyright to any person residing in Costa Rica.

It would appear desirable, before actually issuing the President's proclamation in the form shown on the last page of the Department's circular of July 25, 1899, heretofore sent to you, that you should obtain from the minister of foreign affairs confirmation of the Department's assumption that the Costa Rican law of June 26, 1896, does in fact grant, without restriction to American citizens residing in

Costa Rica, the same privileges as are enjoyed by Costa Rican citizens, and that the extension of this right to citizens of the United States not residing in Costa Rica will follow the issuance of the President's proclamation.

Upon satisfactory reply being received from you, the President's proclamation in the premises will issue.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Mr. Merry to Mr. Adee.*

No. 319.]      LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, September 27, 1899.*

SIR: I have the honor to acknowledge your two communications dated September 18, which reached me on the 25th instant in seven days from Washington. Neither need action on my part.

Your No. 266, dated September 15, has also reached me. In accord with instructions therein, I inclose herewith letter and translation from the acting secretary of foreign affairs of Costa Rica, relating to the international copyright arrangement with the Government of the United States, covering the point indicated in your dispatch No. 266, and which I trust will be found satisfactory.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

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[Inclosure.—Translation.]

*Mr. Facio to Mr. Merry.*

REPUBLIC OF COSTA RICA,  
DEPARTMENT OF FOREIGN RELATIONS,  
*National Palace, San José, September 27, 1899.*

MR. MINISTER: Explaining the uncertainty that yesterday your excellency was pleased to express verbally to me, I have the honor to declare to you that the rights of the law No. 40, of June 20, 1896, apply to North American citizens residing in Costa Rica in the same degree as [they do] to the natives of this country; as also, by effect of the decree No. 6, of August 26 of this year, said rights are likewise extended to the North American citizens resident outside of Costa Rica, on condition that the Government of your excellency makes equal concession to the Costa Rican citizens that do not reside in the United States.

With this explanation I hope to meet the wishes of your excellency; and I am pleased to subscribe myself, with the most distinguished consideration,

Your obedient servant,

JUSTO A. FACIO.

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*Mr. Hay to Mr. Calvo.*

No. 23.]      DEPARTMENT OF STATE,  
*Washington, October 20, 1899.*

SIR: I have the honor to inform you that, satisfactory official assurance having been given that in the Republic of Costa Rica the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of that Republic, the President has, by his proclamation of the 19th instant, declared and proclaimed that the first of the conditions prescribed by section 13 of

the act approved March 3, 1891, now exists and is fulfilled in respect to the citizens of the Republic of Costa Rica.

I beg to inclose for your use printed copies of the proclamation<sup>1</sup> referred to.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Merry.*

No. 277.]

DEPARTMENT OF STATE,  
Washington, October 20, 1899.

SIR: Referring to your No. 319 of the 27th ultimo, I have to inform you that the declaration of the minister for foreign affairs of Costa Rica, copy of which you inclosed, to the effect that the law of Costa Rica permits the citizens of the United States the benefit of copyright on substantially the same basis as to citizens of that Republic, having been accepted as satisfactory, the President has, by his proclamation of the 19th instant, declared and proclaimed that the first of the conditions prescribed by section 13 of the act approved March 3, 1891, now exists and is fulfilled in respect to the citizens of the Republic of Costa Rica.

I inclose for your use printed copies of the proclamation<sup>1</sup> referred to, and am, etc.,

JOHN HAY.

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*Mr. Calvo to Mr. Hay.*

LEGACION DE COSTA RICA,  
Washington, October 21, 1899.

SIR: I have the honor to acknowledge your excellency's note of yesterday informing this legation that, satisfactory official assurances having been given that in the Republic of Costa Rica the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of that Republic, the President has, by his proclamation of the 19th instant, declared and proclaimed that the first of the conditions prescribed by section 13 of the act approved March 3, 1891, now exists and is fulfilled in respect to the citizens of the Republic of Costa Rica. I have also received the copies of said proclamation therein referred to.

In answer thereto it gives me pleasure to say that I have transmitted to my Government a copy of your excellency's note, together with that of the aforesaid proclamation.

Be pleased, sir, to accept, etc.,

J. B. CALVO.

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**CITIZENSHIP OF ROBERTO J. J. PINTO.**

*Mr. Merry to Mr. Hay.*

No. 326.] LEGATION OF THE UNITED STATES OF AMERICA,  
San José, Costa Rica, October 7, 1899.

SIR: I have the honor to request the decision of the Department of State on a question of citizenship. Roberto J. J. Pinto is the son of

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<sup>1</sup> Not printed.

Costa Rican natives and was born at San Francisco, Cal., in 1879; is consequently now 20 years of age. His grandfather was a native of Portugal, long resident in Costa Rica, and must have been a Costa Rican citizen, because he was a general in the army, and during an interregnum of twenty-four hours was President of the Republic.

The parents of young Pinto resided in California about six years, but the father was never naturalized as a citizen of the United States. When he was 3 years old they returned to Costa Rica, where they own realty, and have remained here ever since. Young Pinto has been educated in the public schools of Costa Rica and does not speak English. He has never been registered at the United States consulate here as claiming the protection of the United States. The Government has, in accordance with Costa Rican law, demanded of him military service drill, and he now claims exemption as a minor who intends claiming United States citizenship, by reason of his nativity, when he becomes of age, a year hence.

It appears to me that the young man has no claim to American protection, having practically abandoned any rights he may have had by reason of his nativity. The acting secretary of foreign affairs, Mr. Facio, claims him as liable to military duty, and asserts that when he becomes of age he will be a Costa Rican citizen under the laws of the Republic. As Mr. Pinto is very urgent, I have consented to lay the case before the Department of State, and respectfully await its decision thereon.

With assurances of my highest consideration, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

*Mr. Hay to Mr. Merry.*

No. 279.]

DEPARTMENT OF STATE,  
*Washington, October 25, 1899.*

Sir: I have to acknowledge the receipt of your dispatch No. 326 of the 7th instant, requesting a decision as to the citizenship of Roberto J. J. Pinto, the particulars of whose case are given in the dispatch.

In reply I have to say that we can not do otherwise than support the claim of the young man to American citizenship.

He was born in the United States, and no principle is better settled than that birth in the United States, irrespective of the nationality of the parents, confers American citizenship.

The right of election of nationality, which it is generally conceded a person born under such circumstances has, can not be exercised until he attains his majority. The father can not by any act of his alter the status conferred upon the son by his birth in this country. The United States circuit court in *ex parte Chin King* (35 Fed. Rep., 354) said:

In my judgment a father can not deprive his minor child of the status of American citizenship impressed upon it by the circumstances of its birth under the Constitution and within the jurisdiction of the United States. This status, once acquired, can only be lost or changed by the act of the party when arrived at majority, and the consent of the Government.

The young man is clearly entitled to a passport and protection as a citizen of the United States. Under article 9 of the treaty of 1851 between the United States and Costa Rica he is entitled to exemption "from all compulsory military service whatsoever."

I am, etc.,

JOHN HAY.

## PERU.

### MARRIAGES BETWEEN NONCATHOLICS IN PERU.

*Mr. Dudley to Mr. Hay.*

No. 260.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, May 24, 1899.*

SIR: I have the honor to transmit herewith two copies and a translation of a supreme decree of the 9th instant, the purpose of which is to prescribe a mode of legal proof to be followed by those desiring to marry outside the Roman Catholic Church, by availing themselves of the provisions of the civil marriage law of the 23d of December, 1897. The law legalizes civil marriage when both parties to the contract are non-Catholics, and when, one only of the parties being of that church, the ecclesiastical authority refuses to perform the ceremony.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.—Translation.]

#### MARRIAGES BETWEEN NONCATHOLICS.

Whereas the laws existing up to 1897 only permitted marriages between Catholics, the sole object of the law of December 23d of the same year being the habilitation of non-Catholics.

The said law not containing any provision prescribing the manner of proving the non-Catholicity of the contracting parties, an essential and primary condition of its application.

This, in the execution of the law, has led to discussions and created obstacles the suppression of which is urgent by the prescription of legal and ready means for the previous presentation of the requisite proofs.

Neither has any kind of proceeding been established to facilitate the carrying out of the law in the case of a denial by the ecclesiastical authorities of permission to marry in case of a diversity of creeds.

In exercising the faculty, paragraph 5 of article 94 of the constitution confers upon me, I decree:

ART. 1. Non-Catholics having recourse to the judicial authorities for the object of contracting matrimony in accordance with the said law, shall accompany their petition with a document probatory of the religion to which they belong.

ART. 2. Persons belonging to no religion, or who are able only with great difficulty to produce the required probatory document, shall substitute for the same a sworn written declaration, accompanied with those of at least two persons of well-known standing, residents in the place, testifying to the fact of the petitioners not having been baptized in the Catholic Church.

ART. 3. The judge shall personally receive the sworn verbal ratification of the petitioner's statements and of the witnesses' declarations, and shall extend the corresponding documents.

ART. 4. If the petitioners are unable to present the necessary witnesses at the place where their petition is presented, but give the assurance of the existence of the same either in the Republic, or abroad, the corresponding requisitorial letters shall be extended for the taking of the declarations.

ART. 5. Persons petitioning for a civil marriage on account of the ecclesiastical authority having refused to them the dispensation of the impediment offered by a diversity of creeds, shall accompany their petition with an authentic proof (certificate) of the said refusal.

In the case of the petitioners showing the impossibility for them to obtain the required certificate, the judge shall personally demand the same of the competent ecclesiastical authority, and on receipt of the reply shall give the corresponding decree.

Given at the Government House in Lima, May 9, 1899.

JOSÉ J. LOAYZA.  
N. DE PIEROLA.

## RUSSIA.

### ESTABLISHMENT OF A DIRECT LINE OF DANISH STEAMERS BETWEEN RUSSIAN BALTIC PORTS AND THE UNITED STATES.

*Mr. Hitchcock to Mr. Sherman.*

No. 48.]

LEGATION OF THE UNITED STATES,  
*St. Petersburg, March 1, 1898.*

SIR: I have the honor to inclose herewith copy of a letter dated February 26, 1898, introducing to you Mr. Hans Schack, the representative of the United Steamship Company of Copenhagen, by whose direction Mr. Schack came here to see me with reference to further developing the direct transportation service between American and Russian ports.

The United Steamship Company had been in existence some thirty or more years, has a capital of some \$12,000,000, owns over 120 steamers trading between various European ports, but of which 6 are now employed between Newport News and New Orleans and Russian ports, the desire of the company being to very largely increase the number and size of these vessels, in the hope of thus largely increasing the direct trade between America and Russia and for which, it seems to me, there is now every encouragement.

It is estimated that Russia alone consumes about 1,000,000 bales of cotton annually, of which a comparatively small proportion comes direct from America, but which proportion can be immensely increased if, by direct shipments, the delay and expense of transshipment at Liverpool, Hamburg, and Bremen can be saved.

The same is true with respect to the products of American manufacturing, for which there is an increasing demand in Russia and to further develop which I respectfully request that you will put Mr. Schack in communication with both the Treasury and Agricultural Departments, from which he desires to obtain such statistical and industrial facts as I have no doubt will be of material advantage to him as well as to our countrymen desirous of increasing their trade with Russia.

I have, etc.,

ETHAN A. HITCHCOCK.

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[Inclosure.]

*Mr. Hitchcock to Mr. Sherman.*

LEGATION OF THE UNITED STATES,  
*St. Petersburg, February 26, 1898.*

SIR: I have the honor to introduce, in the bearer of this, Mr. Hans Schack, the representative of the United Steamship Company of Copenhagen, several of whose steamers are now employed in the service between New Orleans and Newport News with Russian ports, and which trade, with proper encouragement, can be very largely increased.

It is for this purpose that Mr. Schack visits America, where he desires to supplement the knowledge he has of this trade with certain facts, statistical and

industrial, which he can best obtain from the Treasury and Agricultural Departments, with which I will thank you to put him in communication.

I have, etc.,

ETHAN A. HITCHCOCK.

*Mr. Sherman to Mr. Hitchcock.*

No. 26.]

DEPARTMENT OF STATE,  
Washington, March 25, 1898.

SIR: Referring to your No. 48, of the 1st instant, concerning the proposed visit of Mr. Hans Schack to this country in the interests of direct trade with Russia, I have to say that the Secretary of the Treasury states that he will be pleased to furnish Mr. Schack with statistics and information bearing upon the purpose of his visit.

Respectfully, yours,

JOHN SHERMAN.

*Mr. Hitchcock to Mr. Hay.*

No. 165.]

EMBASSY OF THE UNITED STATES,  
St. Petersburg, October 10, 1898.

SIR: Referring to my No. 48, of March 1, 1898, to Mr. Sherman, I have the honor to hand you herewith copy of a letter from our consul, Hon. N. P. Bornholdt, dated Riga, October 8, by which you will note that preliminary arrangements have been made by him with the United Steamship Company of Copenhagen for a line of steamers carrying the Danish flag to run direct from St. Petersburg and Riga to New York and vice versa.

You will note by Mr. Bornholdt's letter that the permanency of the arrangement will depend upon the volume of tonnage furnished by shippers, and in view of the great importance of thus maintaining direct communication between our country and Russia, I respectfully suggest that the inauguration of the new enterprise be given such publicity as will secure for its promoters a paying compensation for the risk they thus assume in affording our merchants and manufacturers a most favorable opportunity of increasing their trade with Russia.

I have requested Mr. Bornholdt to furnish me with full particulars with respect to the names, number, and tonnage of steamers that will be engaged in this trade, together with the dates of sailing, and will furnish the Department with such information as soon as secured from him.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure.]

*Mr. Bornholdt to Mr. Hitchcock.*

UNITED STATES CONSULATE,  
Riga, October 8, 1898.

SIR: I have the honor to refer to my conversation with you some time ago regarding the establishment of a line of steamers running direct between Russia and the United States, and have now much pleasure in informing you that I have

made arrangements with the United Steamship Company of Copenhagen, who possesses a large fleet of steamers, to take this line up. The steamers, carrying the Danish flag, now intend to make trial and run from St. Petersburg and Riga and New York, and I am certain that this will tend to increase the trade between the two countries.

The advantage to the importers in the United States of a direct line, which has not hitherto existed, would be cheaper freights and better handling of the goods as the transshipment is avoided, and is to be hoped that there will be sufficient goods to make the trial successful and induce the company to continue to run the line regularly.

I have to-day reported the above to Consul-General Holloway and called his attention to the opening of this new line.

I have, etc.,

N. P. BORNHOLDT, *Consul.*

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*Mr. Peirce to Mr. Hay.*

No. 190.]

EMBRASSY OF THE UNITED STATES,  
*St. Petersburg, November 23, 1898.*

SIR: Referring to the ambassador's No. 48, of March 1, I have the honor to inclose herewith copy of a letter of November 15 from Mr. N. P. Bornholdt, United States consul at Riga, relating to the line of steamships established by the United Steamship Company of Copenhagen, to run between Russian Baltic ports and America.

The representative of the line, Mr. Hans Schack, called upon me a few days ago and informed me that the United Steamship Company had purchased the Thingvalla Line in order to secure port facilities at New York, and will operate that line upon the route between the Russian Baltic ports, including the ports of Finland, and New York and Boston. The ships of the Thingvalla Line are old, but it is the intention of the new owners to replace them by six new ships, of which they will themselves build or cause to be built three, and they hope to find American capital to build the other three.

The company seems to be satisfied that the enterprise will be profitable, and they already find ample freight from the United States to justify their hopes. The difficulty is to secure freights from Russia, but failing this they expect to make up their cargoes from Sweden and Denmark. I have in this connection suggested to Mr. Schack that he look into the question of Russian fancy marbles, which are said to be very beautiful and which might find a market in America. This would be an extremely advantageous article of freight, as it would afford ballast, and Russia being at the terminus of the route, would enable them to load other lighter goods in Sweden and Denmark, if full cargoes can not be obtained in Russia.

A good deal of cement is produced in Russia, and the price of it is said to be low; but how the quality compares with that which comes to our markets from elsewhere, and how far it could stand the added cost of transportation, I do not know.

The principal staples which formerly constituted the bulk of the export of Russia to the United States, namely: Russia sheet iron, crash, bristles, hemp, flax, and Russia leather, have greatly fallen off owing in part, doubtless, to their production in the United States.

I have, etc.,

HERBERT H. D. PEIRCE,  
*Chargé d'Affaires ad interim.*



[Inclosure.]

*Mr. Bornholdt to Mr. Peirce.*UNITED STATES CONSULATE,  
*Riga, November 15, 1898.*

SIR: I have the honor to inform you that the *Georgios I*, belonging to the United Steamship Company, of Copenhagen, was dispatched from here to Boston, Mass., and New York, on Tuesday, the 8th instant, as first steamer of the new line between the Russian Baltic ports and the United States.

The second sailing is intended to take place about the end of this or beginning of next month, if sufficient cargo turns up, and for that trip the steamer *Alexandra*, belonging to the same company, has been taken in view.

I have, etc.,

N. P. BORNHOLT, *Consul.*

### NEGOTIATIONS FOR AN AMERICAN EXPOSITION IN RUSSIA.

*Mr. Hitchcock to Mr. Hay.*

No. 238.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, January 21, 1899.*

SIR: I have the honor to inclose herewith copy of a note which I have addressed to Count Mouravieff asking him whether the Imperial Government would regard with favor a proposition to hold in Russia an American exposition, to consist of practically the American exhibit at the Paris Exposition of 1900.

Should it prove to be possible to hold such an exposition in Russia, I am confident that the results would be of incalculable benefit to our commerce as well as to our general relations with this country.

Russia's extraordinary progress in industrial enterprise opens a wide field for our commerce, especially in all that relates to machinery, manufactures, and transportation, a field in which we require to make known our own development in order to reap the full benefit which ought to accrue to us.

I regret that the time since my return has been insufficient to permit of my first communicating with the Department before addressing this tentative note to Count Mouravieff; but the advantages of such an exposition to American interests here are so evident, and the reception which the suggestion received from our representatives in Paris, with whom I discussed the matter, was so fully in accord with the above that I have felt justified in making the inquiry.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure.]

*Mr. Hitchcock to Count Mouravieff.*EMBASSY OF THE UNITED STATES,  
*St. Petersburg, January 8 (20), 1899.*

YOUR EXCELLENCY: Fully confident of your excellency's desire to promote in every way the historical relations of friendship and the growing intercourse between my country and the Empire of Russia, I wish to lay before your excellency a plan which could not fail to increase the commercial intercourse between our countries and consequently to promote international relations.

It has long been my opinion that an exposition of certain specialties of American manufacture in Russia would be of great interest and value, as exhibiting such

progress as we have made in our development, for the study and comparison of the Russian Government and people in their industrial advance in similar lines which might well serve a useful end by suggesting improved methods as well as stimulating enterprise and inventive faculty. Such an exposition would include methods and appliances for transportation both by land and by water, including the most modern and improved devices in use in my country for conveying passengers and merchandize at the lowest cost; machinery of various sorts, agricultural, mining, and manufacturing, for operation both by power and by hand; for the development of the natural products which are to be found in such abundant variety in this vast Empire, including their growth, such as cotton, flax, grain, timber, the metals and other minerals, including coal and petroleum and their byproducts; electrical apparatus and machinery, both scientific and industrial; systems and apparatus for irrigation and water supply, with their economical application; apparatus and improvements used in preventing, controlling, and extinguishing fires; methods and apparatus employed in sanitation, including the canalization, or sewerage, of cities and towns, and the sanitary equipment of public buildings and dwellings; systems of lighting and heating; hand tools and implements which, while operated by the mechanic's hand, serve to lighten his labor, increase its fruitfulness, and improve its results. In short, all of the various processes and apparatus which the peculiar inventive faculty of my countrymen have brought to bear upon our own industrial development.

In considering how best such an exposition of American industries in Russia could be brought about it occurred to my mind that following the international exposition to be held in Paris in 1900 it would be possible to bring to Russia practically the entire American exhibit, and to this end I consulted with the director-general of our American exhibit there, as well as with the representatives of many of our leading intending exhibitors, all of whom I found to be heartily in accord with the idea. Of course I was unable to make any promises to them beyond the assurance that I would endeavor to ascertain the views of the Imperial Government on the subject, and this is the object of the present communication.

Should the idea expressed in the foregoing meet with your excellency's approval, my plan would be to obtain from the Imperial Government a sufficiently large plot of ground, either at St. Petersburg or Moscow, as would best serve the purpose of the exposition, upon which should be erected suitable building or buildings worthy of the purpose but keeping in view their temporary character, the cost of which I would endeavor to have defrayed by my Government, asking in return for such expenditure by my Government and the American exhibitors such reduction in the rate of transportation through Russian territory and such stipulations and concessions with respect to customs dues and other conditions as would operate for the success of the exposition and the mutual benefit of the Imperial Government and the exhibitors.

I would point out to your excellency that the accumulation at Paris, a point comparatively near at hand, adds a feature of feasibility to the proposition which would be unlikely to occur at a future time.

An expression of your excellency's views on this subject before my departure would be greatly desirable, in order that I may, if the Imperial Government is in accord with the suggestion, take the matter up immediately on my arrival in America, as the time is none too early to commence the necessary preliminary steps, not only as regards my Government, but with the proposed exhibitors, who would require timely notice of such proposed enlargement into a dual exposition.

I avail myself, etc.,

ETHAN A. HITCHCOCK.

[Mr. Hitchcock left his post to return to the United States, February 5, 1899.]

*Mr. Peirce to Mr. Hay.*

No. 249.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, February 13, 1899.*

SIR: Referring to Mr. Hitchcock's No. 238 of January 21 in relation to a proposed exhibition of American machinery and other products illustrative of the progress of industry in the United States, I have the honor to inclose herewith copy and translation of the reply of the Imperial Government to Mr. Hitchcock's note on the subject, copy of

which was inclosed in his No. 238, and of my note of this date, pointing out that the proposition was not to hold here a permanent American exposition but to exhibit for a brief space of time such products as would illustrate America's industrial progress.

I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure 1—Translation.]

*Count Lamsdorff to Mr. Peirce.*

MINISTRY OF FOREIGN AFFAIRS, SECOND DEPARTMENT,  
*St. Petersburg, January 29 (o. s.) 1899.*

MONSIEUR LE CHARGÉ D'AFFAIRES: The minister of finance, to whom I have not failed to transmit the note of January 8 (20) last, has seriously considered Mr. Hitchcock's proposition of establishing a permanent exposition of American products either at St. Petersburg or Moscow.

Mr. Witte has, in theory, no objections to raise against the organization of such an exposition. At the same time he does not find it possible, for reasons of commercial politics, to grant special favors for the importation of objects to be exhibited. As for what concerns the location of the ground necessary for the buildings of the exposition the organizers should address themselves to the respective municipalities.

Accept, etc.,

COUNT LAMSDORFF.

[Inclosure 2.]

*Mr. Peirce to Count Lamsdorff.*

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, February 1 (13), 1899.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of January 29, referring to the question of a proposed exposition of American machinery, etc., to be held in either St. Petersburg or Moscow.

In regard to this matter there appears to have been a misunderstanding on the part of the Imperial Government as to the proposition submitted by Mr. Hitchcock which I hasten to correct. The purpose was not to establish here a permanent exposition, as stated in your note above referred to, but to exhibit here for a brief space of time machinery and other products illustrative of the progress of the United States.

I trust that this explanation, so materially modifying the proposition as it appears to be understood by his excellency the minister of finance, may permit of his acceding to such customs privileges on behalf of the articles imported as would make the exposition possible.

I avail myself, etc.,

HERBERT H. D. PEIRCE.

*Mr. Peirce to Mr. Hay.*

No. 275.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, March 15, 1899.*

SIR: Referring to my No. 249 of the 13th ultimo, I now have the honor to inclose copy and translation of a note from the foreign office relating to the proposed American exposition in Russia.

I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure—Translation.]

*Count Lamsdorff to Mr. Peirce.*

MINISTER OF FOREIGN AFFAIRS, SECOND DEPARTMENT,  
*St. Petersburg, March 1, 1899.*

MONSIEUR LE CHARGÉ D'AFFAIRES: I have transmitted to the minister of finance your note of 1 (13) February, in regard to the subject of a proposed exposition of American products in St. Petersburg or Moscow.

Mr. Witte has to-day advised me that, taking into consideration the fact that the proposed exposition will have a temporary character, he will in this case be able to accord the following customs privileges: The American products intended for display at this exposition may enter free upon the condition that the sum corresponding to the amount of the duties on the products be deposited as guarantee. This sum will be returned in case the products in question shall be exported within a certain time. If the committee of organization of the exposition accepts these conditions the minister of finance wishes to know what shall be the space of time during which it would be the intention to exhibit the American products in Russia.

Accept, etc.,

COUNT LAMSDORFF.

*Mr. Peirce to Mr. Hay.*

No. 120.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 11, 1899.*

SIR: I have the honor to again call your attention to the proposition of an exposition of American industries to be held in Russia, which was referred to in Mr. Hitchcock's dispatch No. 238, of January 21, 1899.

It is hardly possible to touch upon an article of American industrial progress which would not find a market in Russia if properly placed before this community. A few such are already meeting with considerable success as American typewriters, sewing machines, bicycles, tools, hardware, and a number of smaller articles. In the line of machinery the Worthington pump has had a most gratifying success; the Baldwin Locomotive Works have established a regular market in Russia for their engines, of which they have sold up to the present time some 400 engines to the Russian Government, and recently, after an exhaustive test, the Westinghouse air brake has received a very large contract from the Government for the equipment of trains upon the Government lines of railway. American agricultural machinery is also largely used throughout Russia, but its use could be extended by proper exhibition and representation.

These are articles which it has been possible to exhibit to the consumers in the regular way, and they illustrate the fact that a profitable market exists in Russia for American specialties, if only the manufacturer is prepared to display here his wares.

There are, however, almost innumerable lines in which the Russian public is wholly ignorant of what progress we in America have made, and in which there can be little doubt that we have only to make known what we have to offer in order to find an abundant consumption of our goods.

Without at the present time attempting to specify with any sort of fullness what articles of American manufacture would be likely to find a sale in Russia, I will venture to give a few illustrations which may perhaps serve in a general way to indicate Russia's industrial condition in regard to those things which it lacks and which in America have become matters of course.

Taking, for instance, conveniences of the household, although the majority of people in this community, including even the very rich, live in apartments or flats, the use of elevators is extremely limited. I do not know myself of more than twenty in all St. Petersburg, and these are of the most primitive and inconvenient character. I know of but two American pianos in St. Petersburg, one of which is my own. American stoves of any sort are unknown, heating and cooking being almost exclusively done by means of earthenware stoves, which, however satisfactory in certain respects, are costly in the beginning as well as in consumption of fuel. I may here remark that the fuel in common use is wood, which, however, has advanced within two years 50 per cent in price, and in consequence English, or rather Welsh, coal is beginning to take its place. \* \* \* I am confident that American furniture, if it were known here, would sell readily. \* \* \* There are many other minor articles of the household which could well be introduced from America, but the above are the most striking needs.

\* \* \* \* \*

None of the large cities are provided with any system of street railways better than the old-fashion horse cars.

\* \* \* \* \*

“Automobiles,” so called, are coming into somewhat extensive use in St. Petersburg; but I have not heard of any attempt to introduce those of American manufacture, nor are American carriages known to any extent in Russia.

On the other hand, the Bell telephone is in general use in all the large cities, and, I believe, with satisfactory results to the stockholders of the company.

St. Petersburg is almost wholly built of brick covered with stucco. These bricks are hand made, there being no machine brick-making industry in Russia. Bricks are quoted, delivered in St. Petersburg, at 27 rubles—about \$13.50 a thousand—and this with extremely low-priced labor.

Perhaps one of the greatest opportunities for American machinery is in the line of lumber manufacturing, in which Russian methods are primitive in the extreme. It is probable that, should an American company be formed to come to Russia to erect mills for the manufacture of lumber with improved machinery, the Government would extend to it very valuable concessions. I may here remark that I have received the best assurances that Americans coming to Russia to erect factories, or to engage with capital and improved appliances in industrial enterprises, will receive the fullest governmental support. This may be taken to include protection in the way of tariff.

Russian capital, both alone and in conjunction with capital from abroad, is investing largely in industrial enterprises, and this tendency is steadily increasing. In these undertakings American machinery ought to play a far larger part than it does at the present time, but it can only hope to do so by becoming known in Russia.

I have not touched upon the subject of mining machinery, in which direction there is a very wide field for our countrymen in Russia. Gold, silver, platinum, copper, iron manganese, quicksilver, coal, salt, and the precious stones are already mined in large quantities, and increased activity in exploration is constantly developing new deposits. There is an active and a growing demand for all sorts

of mining and metal-working machinery, and in the development of mining and metallurgical industries, as well as in other industrial enterprises, the Imperial Government is extending to capital special encouragement and support in which foreigners participate.

The enormously productive oil lands of the district lying between the Black and Caspian seas are being rapidly and profitably exploited, largely by foreign and especially English capitalists, and here again crude methods, both in the production of the raw article and in its refinement, offer opportunities for the profitable introduction of American processes and apparatus. None of the products of petroleum produced in Russia are comparable to the American articles, American illuminating oil, for instance, finding some sale in St. Petersburg at double the price of the Russian oil.

The manufacture of textile fabrics is probably more highly developed in Russia than most industries, but even in this direction it is worthy of note that such articles as crash, formerly one of the leading products of Russian commerce, is still made only by hand in the peasant villages, and, in consequence, its exportation is rapidly decreasing.

That our commerce with Russia is growing is shown by the large sales which have been made of steel rails, bridges, locomotives, tools, ships, dredges, and other articles of development of public works within the last few years, not to mention articles of regular trade.

Our published statistics regarding our commerce with Russia are misleading, the volume of our trade being much larger than it appears therefrom.

Take, for instance, the item of cotton. Russia consumes of American raw cotton \$40,000,000 annually, while the published statistics place it far less than this; I believe less than one-half. The reason of this disparity is that the greater part of American cotton consumed in Russia comes here by way of England and is accredited to English consumption. In the same way a great quantity of American agricultural machinery comes into Russia via Hamburg and other German ports and is not included in the statistics of our Russian trade.

A line of Danish steamers is now plying directly between New York and St. Petersburg, as you have already been informed, and I am told that the results of this year's traffic have been satisfactory to the owners, although, in the absence of return freight from Russia to the United States, the return cargoes have been made up in Swedish and Danish ports. In this connection I would say that, believing that reciprocal trade is of very great importance in building up our commerce with Russia, I am now engaged in endeavoring to secure an exhibit of specimens of such Russian special products as seem likely to find a market in the United States to be sent to the Philadelphia Commercial Museum, which has at present an extremely meager Russian exhibit.

Submitting the above for your consideration, I have, etc.,

HERBERT H. D. PEIRCE,  
*Chargé d'Affaires ad interim.*

**APPLICATION OF M. W. PIPPING, A RUSSIAN SUBJECT, FOR  
PASSPORTS FOR HIS MINOR SONS BORN IN THE UNITED  
STATES.**

*Mr. Tower to Mr. Hay.*

No. 30.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, April 25, 1899.*

SIR: I have the honor to report to you for your information, the case of Mr. M. W. Pipping, of Helsingfors, a Russian subject who has applied for "a certificate to keep his two sons as American citizens in order to rescue them from military service."

The facts relating to it are as follows: M. W. Pipping was born in Helsingfors, Finland, in 1851. He emigrated to the United States in December of 1883 and resided there, in Pennsylvania and Ohio, where he followed his vocation as a mechanical engineer until the month of March, 1896. He never was naturalized as a citizen of the United States, but returned to his native country and to his duty as a Russian subject in 1896.

Whilst he resided in Altoona, Pa., two sons were born to him, to wit: Alfred, on the 24th of November, 1885, and Ingewald, on the 28th of December, 1887. Upon his return to Helsingfors he brought these two minor children with him, and they are now living with him there.

It is for these boys, who are at present, according to his statement, 13 and 11 years of age, respectively, that he asks for the protection of the United States Government to exempt them from military service here because they were born in America.

His first application, a copy of which is respectfully submitted herewith, together with copies of the whole correspondence relating to it, was made through Mr. Victor Ek, United States vice-consul at Helsingfors, in a letter dated the 16th of March, 1899, to the consul-general of the United States at St. Petersburg, which was in due course referred by the consul-general to this embassy.

Before deciding whether these boys are entitled to receive the protection sought for them by their father, I wrote to the vice-consul at Helsingfors, saying that the only document which could be given them by way of identification would be an American passport, and I asked him for further information as to who Mr. Pipping is and where he was born; when he went to America; when he returned from there; whether he has any interest there; whether he ever declared his intention to become an American citizen; whether he intends to send his children to America to reside there; and, if so, when. I thought it possible that these inquiries might lead to the discovery of some reason for issuing a passport; otherwise it would appear that this was merely the application of a foreigner who seeks to shield his boys from the performance of such duties as they will properly become liable to if they continue to reside within Russian jurisdiction and remain hereafter Russian subjects in fact. But Mr. Pipping has written the reply which accompanied the vice-consul's letter addressed to me on the 10th of April, from which it appears that this man lived in the United States for more than twelve years without acquiring citizenship and without even declaring his intention to become an American citizen; that he is now engaged in business in Helsingfors and has no intention of returning to America to become a citizen of the United States; that he is

raising and educating his sons in Finland and has no definite intention of sending them to the United States now or in the future.

It is true these boys were born in the State of Pennsylvania, and I recognize the fact that they have a right under our statute to avail themselves of that accident to choose American citizenship if they decide to do so upon their coming of age. But, without discussing the abstract question of their right to citizenship, I am inclined to follow at present the ruling of the Department of State in a similar case, in which it was held that a minor child of a foreigner who was removed by his parents beyond the jurisdiction of the United States took the status of his father during his minority if he remained abroad. The Secretary of State having declared in regard to a certain minor born in the United States, but removed by his parents to Switzerland, that, "while it is true that the boy by virtue of his nativity may claim citizenship of the United States, yet his father being an alien and continuing to remain a Swiss citizen, and having removed the boy while a minor without the jurisdiction of the United States, his status, as well as his domicile, according to well-understood principles of international and municipal law, follows that of the father until the boy attains his majority. Should he, after reaching the age of 21 years, voluntarily return to the United States, and make it his permanent home, asserting the right of citizenship in virtue of his nativity, his political status would then be determined according to the law and circumstances of the case." (Mr. Seward to Mr. Fish, in re Joseph Speck, August 20, 1878.)

The children of Mr. Pipping are in no proper sense Americans. They are not in contact with American influence or American thought, and they are not preparing themselves, in so far as I can discover, to perform the duties of American life. They live in a foreign country, and their father now seeks to use the protection of the American flag as a cloak under which to hide them from their legal obligations.

Pending the instructions of the Department, I have refused to issue passports to them.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

*Mr. Ek to Mr. Holloway.*

CONSULATE OF THE UNITED STATES,  
*Helsingfors, March 16, 1899.*

SIR: Mr. M. W. Pipping has lived in America several years, and his two children, Alf and Ingewald (Aino is dead), are born in Altoona, Pa. Mr. Pipping is not American citizen, but he wishes to keep his two sons as American citizens in order to rescue them from military service. He wrote about this matter to his attorney at law in Altoona, and he writes:

"Your favor of the 25th ultimo was received a few days ago. In reply I can only say that I do not see how any paper such as you speak of can be obtained here. I know of no officer of the law who can issue such a certificate. Only way to procure such a decision is to apply to the American consul in the country where your sons may be drafted with military service and there claim exemption from military service on the grounds that they are American citizens. It will then be the duty of that officer to furnish the necessary certificate." I inclose a certificate that the sons of Mr. Pipping are born in America, and beg to send me the necessary certificate for the questioned purpose.

I am, etc.,

VICTOR EK,  
*Vice and Acting Consul.*



[Subinclosure.]

ALTOONA, June 29, 1895.

*To whom it may concern:*

This is to certify that I was present when the following children of Mr. M. W. Pipping and wife were born, viz: Anio Pipping was born March 13, 1884; Alf Pipping was born November 24, 1885; Ingevald Pipping was born December 28, 1887.

JNO. FAY, M. D.

STATE OF PENNSYLVANIA, *County of Blair, ss:*

Personally before me, a notary public in and for said county and State, came John Fay, M. D., who, being duly sworn according to law, deposeth and saith that the statement made above is true and correct

JNO. FAY, M. D.

Sworn to and subscribed before me the 29th day of June, A. D. 1895.

W. J. HAMOR, *Notary Public.*

[Inclosure 2.]

*Mr. Tower to Mr. Ek.*

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, March 27, 1899.*

SIR: Your letter of March 16 last, addressed to the consul-general of the United States in this city, and asking for such certificates as will show the sons of Mr. M. W. Pipping to be American citizens in order that they may avoid Russian military service, has been referred to this embassy.

The only paper which could in such a case be given by way of identification would be an American passport, for which application in the usual form would have to be made out. To that end, therefore, I wish you would send me the following information:

1. Who is Mr. Pipping; when and where was he born?
2. When did he go the United States, where did he reside while there, and in what business was he engaged?
3. When did he leave the United States?
4. Has he now any interests, or does he pay taxes in America?
5. Did he ever declare his intention to become an American citizen; and if so, when and before what court?
6. Where does he live at present, and what is his occupation?
7. Does he intend to send his children to America to reside there; and if so, when?

After I have received from you the replies to these questions I shall communicate with you further.

I am, etc.,

CHARLEMAGNE TOWER,  
*United States Ambassador.*

[Inclosure 3.]

*Mr. Ek to Mr. Tower.*

CONSULATE OF THE UNITED STATES,  
*Helsingfors, April 10, 1899.*

SIR: I had the honor to receive your kind letter of the 27th last, and allow me to inclose a letter of Mr. M. W. Pipping, by which you will see the necessary.

I am, etc.,

VICTOR EK,  
*Vice and Acting Consul.*

[Subinclosure.]

*Mr. Pipping to Mr. Ek.*

[M. W. Pipping, surveyor for hulls, boilers, and engines, Bureau Veritas, Finland.]

HELSINGFORS, *March 29, 1899.*

DEAR SIR: In reply to your esteemed writing of this day I beg to inform that:

1. I was born in 1851, in Helsingfors, and I am a mechanical engineer.
2. I arrived to New York December 11, 1883, and resided in different places in the United States, but the longest time, or over seven years, in Altoona, Pa., partly in the employment of the Pennsylvania Railroad Company and partly living upon my farm close to Altoona. The four last years of my stay in the United States I was in Columbus, Ohio, engaged in engineering.
3. I left the United States in March, 1896.
4. I am the owner of 133 acres of cultivated and inhabited ground close to Altoona, Pa., and I have some business interests in Ohio, and consequently I pay taxes in America.
5. I have not declared before any court that I wanted American citizenship.
6. My occupation and residence is evident from my letter head.
7. The return of my sons to America depends upon business circumstances, and I can not yet be determined as to time, but may not occur till they are big enough to look after my business in America. But unless they are declared Americans before their fifteenth year of age they may not be allowed to leave Finland before they have fulfilled their military service.

Hoping that you can favor my intention, I am, etc.,

M. W. PIPPING.

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*Mr. Hay to Mr. Tower.*

No. 50.]

DEPARTMENT OF STATE,  
*Washington, May 15, 1899.*

SIR: I have acknowledged the receipt of your No. 30, of the 25th ultimo, reporting the application of Mr. M. W. Pipping, a Russian subject, for United States passports for his two minor sons, aged 13 and 11 years, respectively.

It appears that Mr. Pipping resided from 1883 to 1896 in the United States, during which period the boys were born at Altoona, Pa. He was, however, never naturalized as an American citizen, and has returned to the country of his allegiance carrying his minor children with him.

Your action in refusing the passports is approved.

Whether the boys shall elect United States citizenship and prove their election of it by returning to this country to reside is a matter for the future.

I am, etc.,

JOHN HAY.

## SAMOA.

### SAMOAN AFFAIRS.

*Sir Julian Pauncefote to Mr. Day.*

BRITISH EMBASSY,  
*Washington, June 14, 1898.*

SIR: It has been brought to my knowledge by the Marquis of Salisbury that the consuls of the three treaty powers in Samoa received, on the 1st of April last, a communication from certain rebel chiefs of the Tumua, notifying their independence by the erection of a separate flag at Leulumolga.

The three consuls replied, on April 9, informing the rebel chiefs that under the Berlin treaty the government of King Malietoa was the only one in Samoa, and that any attempt to set up a separate government or to raise a separate flag would not be recognized by the three treaty powers.

At a meeting held at the British consulate on the 15th April last it was unanimously decided by the three consuls to submit once more to their respective Governments the question of the return to Samoa of Mataafa.

The three consuls had previously stated their opinion that the return of Mataafa and the other exiled chiefs would, under certain conditions, be a source of strength to the government of King Malietoa, especially as the question had been further complicated by the hoisting of the rebel flag at Leulumolga.

Mr. E. Maxse, Her Majesty's consul, reports that the Mataafa clan (aiga) is very disquieted at the rumor that Mataafa will not be pardoned, and that the King and government fear that the clan will return to the rebel should his pardon be much longer delayed. Mr. Maxse adds that the return of Mataafa to Samoa would undoubtedly detach many powerful chiefs from the rebel faction who now openly declare that the talk of Mataafa's return was a mere trick to try to induce them to come in.

Under the circumstances, which I have briefly indicated above (and which have doubtless been already reported to you by the United States consul-general at Apia), I am directed by the Marquis of Salisbury to inquire whether your Government are disposed to concur in the recommendation of the consul that Mataafa should now be permitted to return to Samoa on condition of his signing the protocol a draft of which I have the honor to inclose in this note.

I have, etc.,

JULIAN PAUNCEFOTE

[Inclosure.]

## PROTOCOL.

I, Mataafa, now of the island of Jaluit, do hereby solemnly promise, agree, and declare that if I shall be pardoned and permitted to return to Apia, Samoa, I will at all times be and remain in all things loyal to the government of Samoa, as now established under the Berlin treaty, and to Malietoa and to his successors; that I will remain at Mulinuu and not depart therefrom without the written consent of the consuls of the treaty powers; that I will not encourage or participate in any hostile action against the government, nor will I permit my relatives or adherents to engage in any such hostile action against the government, and that I will to the best of my ability aid and support the government as now established under said treaty, and that I will use my influence to promote the peace of Samoa and to strengthen the loyalty of the people toward the government, and that my return and continued residence in Samoa shall depend upon my faithful performance of all of the conditions above mentioned.

In testimony whereof I have hereunto set my hand this ——— day of ——— 1898.

In presence of—

*Mr. Day to Sir Julian Pouncefote.*

No. 1066.]

DEPARTMENT OF STATE,  
Washington, June 25, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant. It deals with the question of the pardon of Mataafa and his return to Samoa, in view of the threatened secession of the other chiefs who would unquestionably be deterred from taking any hostile action against the Samoan government in case he were permitted to return from his exile. Accordingly it is suggested that should Mataafa agree to sign a protocol, draft of which you inclose, promising allegiance to Malietoa and the government of Samoa, he be permitted to return thither.

The Government of the United States cordially concurs in this view of the case and the recommendation of the consular body to which you allude. It is proper to say that this Department is in receipt of identical information with that imparted by your note, from Mr. Luther W. Osborn, consul-general of the United States at Apia, who transmitted it in a recent dispatch.

Mr. Osborn will be instructed to cooperate with his colleagues in obtaining the signature of Mataafa to the protocol in question, whereupon his return to Samoa may be assured.

Inclosing for your information a copy of a note<sup>1</sup> upon the subject addressed to the German ambassador, I have the honor to be, etc.,

WILLIAM R. DAY.

*Mr. Day to Mr. von Holleben.*

No. 66.]

DEPARTMENT OF STATE,  
Washington, June 25, 1898.

EXCELLENCY: I have the honor to inclose for your information a copy of a note from the British ambassador, of the 14th instant, and

<sup>1</sup> See *infra*.

of my reply of the 25th, in relation to the pardon of Mataafa and his return to Samoa, as a means of averting threatened hostility on the part of certain other chiefs against the government of Samoa.

It will be perceived that the Government of the United States concurs in the suggestion of Her Majesty's Government based upon the recommendation of the consular body at Apia, that Mataafa be permitted to return to Samoa upon signing the protocol inclosed by the British ambassador, promising allegiance to the King and the government of Samoa.

It is not doubted that this disposition of the case will meet the approval of His Imperial Majesty's Government, and that proper instructions will be sent to the German consular representative at Apia to cooperate with his American and British colleagues to secure the signature of Mataafa to the proposed protocol upon which his return to Samoa is predicated.

The consul-general of the United States at Apia has been instructed in that sense.

I have, etc.,

WILLIAM R. DAY.

*Mr. Day to Sir Julian Pauncefote.*

No. 1079.]

DEPARTMENT OF STATE,

*Washington, July 7, 1898.*

EXCELLENCY: I have the honor to inclose for your information a copy of a note<sup>1</sup> from the German embassy, of the 7th instant, and of my reply of to-day's date, assenting to the return of the chiefs who were exiled with Mataafa, on condition that each were willing to sign a protocol similar to that mentioned in the Department's note, No. 1066, of June 25, 1898, and which promised allegiance to the government of Samoa. It is further stipulated, however, that the consent of Her Majesty's Government should first be given to this disposition of the incident.

I have, etc.,

WILLIAM R. DAY.

*Mr. Sternburg to Mr. Day.*

GERMAN EMBASSY,

*Washington, July 7, 1898.*

MR. SECRETARY: Acting under instructions of his Government I am directed by his excellency the German ambassador to inquire whether your Government are disposed to concur in the recommendation of the Imperial German Government that all the chiefs living in exile with Mataafa should not be permitted to return to Samoa on condition of their signing a similar protocol to that to be signed by Mataafa regarding their loyalty toward the Samoan government.

Sir Julian Pauncefote informed me that he would telegraph to his Government as soon as an agreement had been reached on this question between the Government of the United States and the Imperial German Government.

I avail myself, etc.,

H. S. STERNBURG.

<sup>1</sup> See *infra*.

*Mr. Day to Mr. von Holleben.*

No. 76.]

DEPARTMENT OF STATE,  
Washington, July 7, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of a note from your embassy of the 7th instant, in which you inquire whether the Government of the United States is disposed to concur in the recommendation of the Imperial German Government "that all the chiefs living in exile with Mataafa should be permitted to return to Samoa on condition of their signing a similar protocol to that to be signed by Mataafa regarding their loyalty toward the Samoan government."

I am disposed to believe that the peace of Samoa would be more readily and perhaps more permanently secured by the return thither of all the chiefs who accompanied Mataafa in his exile, provided each were willing to sign the protocol or a similar one to that mentioned in the Department's note No. 66, of June 25, 1898, and which promised allegiance to the Samoan government.

If this disposition of the incident is satisfactory to Her Britannic Majesty's Government, as well as that of His Imperial German Majesty's, it will be acceptable to the Government of the United States.

I shall give a copy of your embassy's note and of my reply to the British ambassador for the information of Her British Majesty's Government.

Accept, etc.,

WILLIAM R. DAY.

*Sir Julian Pauncefote to Mr. Day.*

BRITISH EMBASSY,  
New London, Conn., July 12, 1898.

SIR: With reference to your note No. 1066, of the 25th ultimo, assenting to the return of the exiled chief, Mataafa, to Samoa, I have the honor to bring before you, by desire of the Marquis of Salisbury, a matter which, in the opinion of Her Majesty's Government, calls for consideration of the treaty powers.

Her Majesty's consular representative in Samoa, Mr. Maxse, has reported that the health of the present King, Malietoa, is very unsatisfactory, and, in view of the possibility of his early demise, it is suggested that the treaty powers should consider the arrangement to be made for the selection of a successor.

I am desired by Her Majesty's Government to inquire what view the United States Government take of the matter.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Day to Sir Julian Pauncefote.*

No. 1094.]

DEPARTMENT OF STATE,  
Washington, July 18, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, in which, with reference to the return of the exiled chief, Mataafa, and the unsatisfactory condition of the health of the present king, Malietoa, whose early demise may reasonably be

expected, "it is suggested that the treaty powers should consider the arrangements to be made for the selection of a successor." You accordingly inquire, at the instance of Her Majesty's Government, what view the Government of the United States takes of the matter.

The inquiry of Her Majesty's Government is evidently prompted by a desire to insure, if possible, the permanent peace of the Samoan Islands in case of the death of King Malietoa. In this aspect of the case the Government of the United States is equally solicitous and is willing to exert its influence by all legal and equitable means.

It is desirable and necessary, however, in this connection to refer to the provisions of the general act providing for the neutrality and autonomous government of the Samoan Islands, concluded at Berlin June 14, 1889.

Article I of the general act, after declaring that those islands are neutral territory, in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection, says:

The three powers recognize the independence of the Samoan government and the free right of the natives to elect their chief or king and choose their form of government according to their own laws and customs. Neither of the powers shall exercise any separate control over the islands or the government thereof.

The same article defines the status of Malietoa Laupepa, who was recognized by the three powers as king, and adds:

His successor shall be duly elected according to the laws and customs of Samoa.

Nowhere in the general act is authority conferred upon the treaty powers to appoint or agree upon a successor to King Malietoa. The right of the natives to elect their chief or king according to their own laws and customs is clearly conceded and recognized.

When they shall have done this, by reason of the death of Malietoa, the Government of the United States will be most willing to cooperate with the interested powers to recognize the natives' choice and to do all that lies in its power to strengthen his hands for the preservation of peace and the maintenance of good government in the Samoan Islands.

I have, etc.,

WILLIAM R. DAY.

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*Sir Julian Pauncefote to Mr. Day.*

BRITISH EMBASSY,

*New London, Conn., July 26, 1898.*

SIR: With reference to your note of the 7th instant and to previous correspondence relative to the proposed measures for the repatriation of Mataafa and the chiefs exiled with him, I have the honor to state to you that I have been informed by Her Majesty's secretary of state for foreign affairs that instructions have been sent by telegraph to Her Majesty's consul at Apia to make the necessary arrangements, in concert with his German and United States colleagues, for Mataafa's return to Samoa, on condition that he signs the protocol which has been drawn up with regard to his future good conduct.

Consul Maxse's attention has also been drawn to the opinion of the German Government that the chiefs who shared Mataafa's exile should also be called upon to sign the protocol previous to their return.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Day to Sir Julian Pouncefote.*

No. 1110.]

DEPARTMENT OF STATE,  
*Washington, July 29, 1898.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant in regard to the proposed measures for the return to Samoa of Mataafa and the chiefs exiled with him, and to say, in reply, that they are satisfactory to the Government of the United States.

I have, etc.,

WILLIAM R. DAY.

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*Sir Julian Pouncefote to Mr. Day.*

BRITISH EMBASSY,  
*New London, Conn., September 1, 1898.*

SIR: With reference to my note of the 12th of July last, respecting the possibility of the early demise of King Malietoa, of Samoa, and the arrangements to be made for selecting his successor, I have the honor to state to you that Her Majesty's Government have now received through Mr. Maxse, Her Majesty's consul in Samoa, the intelligence of Malietoa's death.

I am directed by Her Majesty's secretary of state for foreign affairs to inform you that Her Majesty's Government are of opinion that the election of the King's successor ought to be strictly in accordance with the provisions of Article I of the Berlin final act of 1890, and that the consuls of the three powers should be instructed by telegraph to submit suggestions relative to the manner of procedure.

In reporting the death of the King, Mr. Maxse added a personal recommendation that the return to Samoa of the Chief, Mataafa, should be delayed until after the election of a new king, and Her Majesty's Government would be glad to learn the views of the United States Government in regard to this proposal.

I have, etc.,

JULIAN POUNCEFOTE.

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*Sir Julian Pouncefote to Mr. Adee.*

BRITISH EMBASSY,  
*New London, Conn., September 28, 1898.*

SIR: I had the honor on the 1st instant to address a note to Mr. Secretary Day in reference to the affairs of Samoa, stating the views of Her Majesty's Government in regard to the election of a successor to the late King Malietoa, and asking for an expression of your Government's opinion on the recommendation of Her Majesty's consul at Apia that the return to Samoa of the Chief, Mataafa, should be delayed until after the election of the new king.

I venture to recall the matter to the attention of your Government, as the question of Mataafa's return is evidently one on which it is important that a decision should be arrived at without delay, and I feel it to be very desirable that my Government should be in possession of the views of the United States Government on the subject at the earliest moment possible.



I should be greatly obliged if you would favor me with a reply to the inquiry contained in my note as soon as you find it practicable to do so, in order that I may communicate it to Her Majesty's Government by telegraph.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Hay to Sir Julian Pauncefote.*

No. 1217.]

DEPARTMENT OF STATE,

*Washington, October 5, 1898.*

EXCELLENCY: I have the honor to acknowledge the receipt of your notes of September 1 and 28, 1898. In the former you refer to the death of Malietoa, King of Samoa, and say that Her Majesty's Government is of the opinion that his successor should be elected strictly in accordance with the provisions of Article I of the general act of Berlin of June 24, 1889, and that the return of Mataafa and his exiled companions should be deferred until after the election. In the latter note you repeat this recommendation and ask the views of the Government of the United States upon the subject.

The conclusion of the British Government touching the election of a successor to the recently deceased king coincides with the views expressed in the Department's note of July 18, 1898, No. 1094.

It is observed, however, that the further suggestion is made in your note of September 1 "that the consuls of the three powers should be instructed by telegraph to submit suggestions relative to the manner of procedure."

I am disposed to sanction, on the part of the Government of the United States, as a wise and perhaps necessary precaution to insure the peace of Samoa, that the election of Malietoa's successor should precede the return of Mataafa and followers to Samoa. But I fail to see with what propriety the consuls of the treaty powers could be instructed to "submit suggestions relative to the manner of procedure." It should be borne in mind, as was pointed out in the Department's note of July 18 last, that the three powers recognize Samoan independence and "the free right of the natives to elect their chief or king \* \* \* according to their own laws and customs." Again, Article I declares, referring to Malietoa, "his successor shall be duly elected according to the laws and customs of Samoa."

It is true the Department is not advised as to the manner and procedure to be followed in the election of a new king, under Samoan laws and customs, but it fails to comprehend the necessity for telegraphic instruction to the consuls, in the sense of your suggestion, since it appears to be a case in which neither power is called upon to interfere beyond what may reasonably be done to conserve the peace of Samoa, should it be threatened by a failure of the natives to exercise their free right to choose their king according to their own laws and customs.

As a matter of interest perhaps it might have been well had the consuls apprised their Governments of the method of native procedure, but in all probability the election will have taken place and the result thereof, including the manner of procedure, will have been reported on by each consul to his Government before such information could now be sought and availed of.

The return of the exiled chiefs is a question to be seriously consid-

ered. The assent of this Government for their return was given while yet Malietoa lived. His death, entailing the election of a successor, put an entirely new phase upon the matter. This Government is still of opinion that they should be returned to Samoa, but it believes that all interests would be best conserved, if it be not now too late, by withholding their return until after a new king has been elected and installed.

In this connection, for convenience, reference is made to the Department's notes of June 25 and July 29, Nos. 1066 and 1110, respectively, respecting the return of these exiled chiefs. This correspondence was promptly brought to the attention of the consul-general of the United States at Apia and two dispatches from Mr. Luther W. Osborn, No. 50 of August 9 and No. 55 of August 31, 1898, treat of this subject.

In the first dispatch he remarks that his colleagues have not received instructions as full as his own, but that the Imperial German consul was in daily expectation of receiving his, and that consequently a joint meeting was temporarily deferred. Mr. Osborn says:

Neither consul has any definite instructions as to the return of the chiefs who are in exile with Mataafa though it is presumed that Her Majesty's Government consented and that we will be advised by the next mail. Instruction No. 46 was written July 8, which was probably the latest date on which a communication would have reached me by the July boat.

At that time I believe that the British ambassador had cabled to his Government, but no answer had been received. We have thought best that we should take no action before receiving advices that all concur in consenting to the return of all. In that event whatever boat is sent to Jaluit can take the protocols, and if properly signed and agreed to by Mataafa and the other chiefs, the same boat can bring them to Samoa and thus make but a single trip, and this is desirable, as the distance is great.

At that date the only vessel at Samoa was the German *Bussard*. It was not, however, thought prudent to dispatch her for the exiles in view of the precarious condition of the late King's health. Again, Mr. Osborn writes:

In view of the possible death of Malietoa, we are somewhat interested in the question of the selection of his successor.

It was agreed to-night that we would meet soon in consultation with the chief justice and endeavor to decide what action should be taken by the consuls in the matter, should any action become necessary.

In the second dispatch Mr. Osborn refers to the fact that the three powers, while agreeing to the return of these chiefs, had not decided as to the means to be adopted to that end. Mr. Osborn adds:

By the last mail from San Francisco the German consul-general received telegraphic instructions that it was agreed that the *Bussard* should at once proceed to the Marshall Islands and return the exiles, provided they should sign the protocols as to future conduct, substantially as heretofore agreed upon by the powers. As these exiles are in German territory, I suppose this arrangement to be the only one that could be made. Owing to the death of Malietoa the protocols had to be changed or modified to conform to changed conditions, and this was accordingly done by the agreement of all parties, and I send herewith, as inclosure 1, the protocol designed for Mataafa and, as No. 2, the protocol prepared for the other chiefs.

The *Bussard* started for the islands at 8.30 on August 29, and it is supposed that it will return in about twenty-five days, as the distance is about 1,600 miles, and the *Bussard* is not expected to make more than 200 miles per day. We have arranged that the *Bussard* shall deliver the exiles at Mulinuu, as there would otherwise be contention as to what consular boat should deliver them, and under what flag. The consuls and the chief justice will then receive them on shore at Mulinuu—also the president.

This is a peculiar country, existing under peculiar conditions, and the utmost care must be taken to avoid friction.

This we shall seek to avoid. By first mail after the arrival I will make full report.

These extracts give the Department the latest and most authentic information on the subject. It may be too late to prevent the return of these chiefs, but I am willing to telegraph Mr. Osborn as follows:

Unless exiled chiefs have been returned Samoa, join your colleagues in preventing their landing until after election new king.

Awaiting your pleasure before taking further action on the subject, I have, etc.,

JOHN HAY.

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*Sir Julian Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, January 9, 1899.

SIR: Count Castell, the German chargé d'affaires in London, has communicated to the Marquis of Salisbury a report from the German consul-general at Apia with reference to the election of a king in Samoa. The consul-general recommends the issue of identic instructions to the consuls of the three treaty powers directing them to keep in view in all circumstances the preservation of peace, and, if necessary, to make joint proposals for the settlement of the political situation in case it should be found impossible to carry out the election of the new king in accordance with the provisions of the Berlin final act.

The German Government have expressed their opinion that such instructions would tend to the preservation of peace.

Lord Salisbury has replied, stating that Her Majesty's Government concur in the proposal made by the German Government.

I am directed by Lord Salisbury to communicate the above for the information of your Government.

I have, etc.

JULIAN PAUNCEFOTE.

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*Mr. Hay to Sir Julian Pauncefote.*

No. 1307.]

DEPARTMENT OF STATE,  
Washington, January 10, 1899.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 9th instant, embodying the substance of a report from the German consul-general at Apia with reference to the election of a Samoan king. You add:

The consul-general recommends the issue of identic instructions to the consuls of the three treaty powers directing them to keep in view in all circumstances the preservation of peace, and, if necessary, to make joint proposals for the settlement of the political situation in case it should be found impossible to carry out the election of the new king in accordance with the provisions of the Berlin final act.

You say that the German Government has expressed its opinion that such instructions would tend to the preservation of peace and that Lord Salisbury has replied that the German proposal was concurred in by Her Majesty's Government.

In a memorandum from the German charge d'affaires ad interim of December 14, 1898, substantially the same proposal was made and the views of this Government invited.

In my reply of January 10, 1899, I have said, regarding this proposition, that the consul-general of the United States at Apia was fully

cognizant of the desire of his Government that peace and prosperity should prevail in Samoa. I added:

Acting under the general instructions given him, I am sure that Mr. Osborn will omit no reasonable opportunity to manifest his interest or to assist his colleagues in furthering so desirable an end, so far as this can properly be done.

If, however, by "joint proposals in the interest of the political situation"—since that is a broad and general designation as applied to the Samoan Islands or to any other sovereignty—is meant that Mr. Osborn should be instructed to join with his colleagues in matters touching the election of a king, I must say that this can not be assented to. The view of this Department on this subject are contained in its note of December 20, 1898, No. 164, and so far no reason is perceived making it necessary to depart therefrom. Moreover, the latest intelligence the Department possesses on this point is that, after fruitless attempts to elect a king according to Samoan laws and customs, the matter has been referred to the chief justice pursuant to Article III, section 6, of the Berlin general act, which says:

"In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of king or of any other chief claiming authority over the islands, or respecting the validity of the powers which the king or any chief may claim in the exercise of his office, such question shall not lead to war, but shall be presented for decision to the chief justice of Samoa, who shall decide it in writing, conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith; and the signatory Governments will accept and abide by such decision."

In this connection I desire to refer to the Department's note to you of July 18, 1898, No. 1094, wherein the views of this Government were expressed touching the election of a king.

In conclusion, I assure you that this Government is equally interested with that of Great Britain and Germany in seeing that peace is maintained in Samoa and that the election of a king shall proceed in accordance with the laws and customs of the country, or, in case of failure thereof, that the reference of the issues involved to the chief justice shall be had under the provisions of the Berlin final act. Further than this the Government of the United States does not feel that it would be justified in going, and, moreover, believes that any undue influence or assertion of authority on the part of the consular representatives at Apia would be violative of the treaty, and instead of composing the differences, if any, that exist at present in Samoa growing out of the efforts to elect a king, might aggravate them. It holds that the three Governments should maintain an absolutely impartial attitude, confining their efforts, through their respective consuls at Apia, to the maintenance of peace and good order and the protection of the lives and property of their nationals from any disturbances that might unfortunately arise during the efforts put forward by the various factions for the election of a king.

I have, etc.,

JOHN HAY.

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*The Marquis of Salisbury to Sir Julian Panncofote.*

[Telegram.]

BRITISH EMBASSY,  
Washington, March 4, 1899.

Article 5, Section V, of general act for government of Samoan Islands.

German Government suggest that, in the event of any doubt arising as to the competency of the provisional (?) government of Samoa under this section, the new president should, as a preliminary arrangement, be appointed by the consuls of the powers without the cooperation of the Samoan authorities.

Please ascertain if the United States Government concur.

*Sir Julian Pauncefote to Mr. Hay.*

[Telegram from Consul Maxse, Apia, to Lord Salisbury, March 7, 1899.]

BRITISH EMBASSY, *March 17, 1899.*

U. S. S. *Philadelphia* arrived March 6. Forces are being assembled by Mataafa faction, who are intimidating certain Malieto chiefs with a view to compel them to join.

The German consul-general has declined to join the United States and British consular representatives in a proclamation, but has himself issued an aggressive one.

Agreement impossible owing to action of German consul-general.

[Handed to Secretary April 13, 1899, being substance of a telegram from Lord Salisbury to Sir Julian Pauncefote.]

In view of the troubles which have recently taken place in Samoa, and for the purpose of restoring tranquillity and order therein, the three parties to the conference of Berlin have appointed a commission to undertake the provisional government of the islands.

For this purpose they shall exercise authority in the islands. Every other person or persons exercising authority therein, whether acting under the provisions of the final act of Berlin or otherwise, shall obey their orders, and the three powers will instruct their consuls and naval officers to render similar obedience. No action taken by the commissioners in pursuance of the above authority shall be valid unless it is assented to by all three commissioners. It will fall within the attribute of the commissioners to "consider the provisions which they may think necessary for the future government of the islands, or for the modification of the final act of Berlin, and to report to their Governments the conclusions to which they may come."

A similar telegram has been sent to Berlin.

*Mr. Hay to Mr. Choate.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, April 14, 1899.*

Agreement for Samoan commission reached on basis of Lord Salisbury's recent identical telegrams to British ambassadors in Washington and Berlin. To be completed by exchange of notes at London. You will at once arrange with Lord Salisbury and address him a formal note accepting on behalf of the Government of the United States the joint agreement in the words of Lord Salisbury's telegrams.

HAY.

*Mr. Choate to Mr. Hay.*

[Telegram.]

AMERICAN EMBASSY,  
*London, April 15, 1899.*

I have accepted joint agreement in terms of British minister for foreign affairs telegrams as obtained from the foreign office.

CHOATE.

*Mr. Hay to Mr. Tripp.*

DEPARTMENT OF STATE,  
Washington, April 18, 1899.

SIR: In consequence of the important state of affairs existing at present at Apia, the Governments of the United States, Great Britain, and Germany, signatories to the Berlin general act concluded June 14, 1899, have agreed upon a commission to visit the islands for the purpose of reaching a satisfactory adjustment of the questions that have given rise to this unfortunate condition.

I have the pleasure therefore to inclose your letter of appointment as commissioner of the United States to the Samoan Islands, and a copy of the Berlin general act,<sup>1</sup> providing for the autonomous government of those islands.

In this connection I embody the identic instruction each Government proposes to address to its commissioner. It reads as follows:

In view of the troubles which have recently taken place in Samoa, and for the purpose of restoring tranquillity and order therein, the three powers, parties to the conference of Berlin, have appointed a commission to undertake the provisional government of the islands.

For this purpose they shall exercise supreme authority in the islands. Every other person or persons exercising authority therein, whether acting under the provisions of the final act of Berlin or otherwise shall obey their orders, and the three powers will instruct their consular and naval officers to render similar obedience. No action taken by the commissioners in pursuance of the above authority shall be valid unless it is acceded to by all three commissioners. It will fall within the attributes of the commissioners to consider the provisions which they may think necessary for the future government of the islands, or for the modification of the final act of Berlin, and to report to their Governments the conclusions to which they may come.

Your colleagues will be: On the part of Great Britain, Mr. C. N. E. Eliot, C. B., second secretary of the embassy in this city, and, on the part of Germany, Freiherr Speck von Sternberg, counselor of legation and first secretary of the embassy at Washington.

The Secretary of the Navy has placed at the disposal of the commission the U. S. S. *Badger*, now fitting out at San Francisco, for the purpose of conveying it to Samoa and return. The ship will be ready to sail from San Francisco by April 25, 1899, at which time it is expected yourself and colleagues will arrive there.

The President leaves to your judgment and discretion, within the limits of the identic instruction, the full and complete investigations which he regards as necessary to a proper understanding of the situation, to the end that a repetition of the regrettable incidents may not occur, the exact responsibility may be clearly established, and the remedy be applied. The President feels that you realize the importance of the trust confided to you, and is confident that, in the exercise of the plenary powers you possess, you will give the subject, in all its bearings, careful and thoughtful study, so that the report of the commission may have that value which he confidently expects and which the importance of the questions at issue imperatively demands. The President particularly enjoins harmony of action, which must needs give to the deliberations of the commission added value and weight. He desires the questions shall be thoroughly sifted and wishes the

<sup>1</sup> Printed in Foreign Relations, 1899, p. 353.

facts plainly stated. In other words, the origin and causes of the recent occurrences at Apia should be clearly and definitely ascertained.

\* \* \* \* \*

I am, etc.,

JOHN HAY.

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*Mr. Tripp to Mr. Hay.*

No. 1.]

APIA, SAMOA, *May 18, 1899.*

SIR: I have the honor to inform you that the commission arrived in San Francisco on the evening of April 24, 1899, as was expected when we left Washington, and sailed from San Francisco April 26, at 10 o'clock a. m., for Samoa. We arrived at Honolulu May 3, and having taken on a supply of coal, left that port for Apia May 5, arriving here Saturday, May 13, and cast anchor in the harbor about 9 a. m. After the firing of salutes and paying the customary visits the commission organized in the afternoon of May 13, 1899, by electing myself as chairman and Mr. Morgan as secretary. On Monday, the 15th, we secured rooms for sessions of the commission during the day on shore and have held daily sessions since that time.

I have little of progress to report at this time. Our consul has from time to time fully advised you of the rapid succession of events since the decision of the Chief Justice in favor of Malietoa Tanu as King, and I can add nothing new as a matter of historical interest to that which you have already before you.

Open hostilities have ceased and a kind of armistice now obtains; but several thousand of the fighting men of the islands are camped about us. The feeling of insecurity on the part of the whites is very acute, and the strain of nervous tension is almost painful. Mataafa has withdrawn behind his improvised fortifications without the boundaries of Apia and about 1,000 of the native adherents of Malietoa Tanu, commanded by American and English officers, armed with American and English rifles, together with detachments of marines from American and English ships in the harbor, are camped within the town of Apia, patrol its streets, and are instructed to repel any attack of Mataafa's men and to guard the unprotected property of the people. The feeling existing here between American, English, and German officials has extended itself to those of English and German nationality in private life. There is no apparent disposition toward compromise or concession by those who have taken part with or manifested sympathy for the actors in this terrible tragedy. Every man, woman and child—white and native—seems to have become an adherent of one or the other of these hostile factions contending for the empty honor of being crowned a Samoan king. This complicates and makes more difficult the work of the commission. You must not expect too much from its unanimous action. I shall use every effort to secure such action as may restore peace, disband and disarm these savage tribes, and secure for them a simple, strong, and stable government in the future, so far as it can be done by compromise and concession in matters which will not affect our national honor nor offend our national dignity. If more be demanded I shall aim to make apparent the responsibility of those who shall have defeated the object of the commission by stubborn adherence to immaterial technicalities to the sacrifice of diplomatic principle. I am studying the question from the standpoint of the native as I have studied

it on my journey from the standpoint of the nations, and so far I must admit I am unable to see upon what ground the decision of the chief justice can be overturned even though the reasoning by which he came to the conclusion may be open to objection. The jurisdiction of the court from whatever standpoint the case be considered is ample and undoubted, both of the subject-matter and of the parties. If any doubt remained, the express language of the treaty puts it at rest. The decision rendered by the supreme court of Samoa, in the exercise of undoubted jurisdiction, is unmistakably clear and plain. It is a full, complete, and final determination of the issues before the court, and though it gave a wrong reason for a decision it was authorized to render, such fact even would not avoid or affect the decision itself. The proposition is one too elementary to permit of discussion. This proposition has not yet been discussed by the commission, but if my associates agree with me, as it seems to me they must, the questions before us will be simplified and in a measure relieved of the local obstacles which otherwise would tend to impede our progress. I hope to inform you in my next that by easy stages the commission has arrived at this conclusion, and that the results which should naturally flow from such decision have been attained, modified only by such immaterial concessions as must be made to unanimity and to national dignity. The task you have set me is a delicate as well as a difficult one, and I trust my success or failure will be measured by the force and character of the opposition I have had to meet or overcome. I hope to write you more definitely in my next.

I have, etc.,

BARTLETT TRIPP.

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*Mr. Tripp to Mr. Hay.*

No. 2.]

APIA, SAMOA, *May 19, 1899.*

SIR: I have the honor to submit herewith letters received from Malietoa Tanumafili and also from Mataafa, together with our replies.

We have arranged to receive Malietoa Tanumafili this afternoon and Mataafa to-morrow morning on board the *Badger*, together with their head chiefs and talking men. We shall hear what each party has to say, advise them fully of our powers, and inform them that they must disband, return to their homes, and await the further action of the commission.

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All is now quiet and the status quo is expected to be maintained until the definite action of the commission.

I am getting off this dispatch hurriedly just as the mail is closing, and beg, etc.,

BARTLETT TRIPP.

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[Inclosure 1.]

*Mataafa to the Commission.*

THE PROVISIONAL GOVERNMENT OF SAMOA,  
*Malie, May 12, 1899.*

YOUR EXCELLENCIES: We offer your excellencies our great respect and our thanks. We offer you in this letter our welcome, with the heart full of joy at our now meeting.



We are the provisional government, established by the three consular representatives of the three great signatory powers.

(1) We express to you our great joy and thanks that you come to Samoa on so high a mission. Thanks for your coming, and we know certainly that you will do what is just with goodness and love to our country. We hope greatly in your good will and help to those who are known to have the authority of the Tanua and Pule in this our own country according to Samoan customs.

Thanks for your safe journey over the great sea with its contrary winds and great distance.

(2) We know for certain that you greatly desire the happiness and peace of Samoa. Therefore we now appeal to you as follows, if it is according to the desire of your excellencies: To disperse the army at Mulinuu, and take away all the arms that were distributed to them by the whites. Then we promise to quickly dismiss our soldiers.

(3) We appeal to you with respect, if it is according to your desire: To allow us, if possible, to go to Apia to interview our lawyers, who shall arrive in Apia next week. We promise you now that we ourselves will advise the peace of Samoa.

In our sincerity we sign our hand below.

We are your beloved friends,

MATAAFA AND THE 13 CHIEFS OF TANUA AND PULE

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[Inclosure 2.]

*The Commission to Mataafa.*

APIA, May 15, 1899.

SIR: Your letter of the 12th has been received. The great powers have learned with regret that the Samoan people have been unable to agree upon a king; and they have been shocked at the atrocities which have followed this disagreement. The three powers are agreed that peace should be established, the war ended, and all Samoans return peaceably to their homes.

They have sent us to take over the government of these islands now, and to prepare for Samoa a strong and stable government for the future.

We shall be glad to receive you and to speak with you further about these and other matters, and we therefore invite you to call on us on board our vessel, the *Badger*.

We desire you to inform us when you will come to Apia in order that we may make arrangements for your safe journey.

We are, sir, yours faithfully,

[Signed by each commissioner.]

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[Inclosure 3.]

*Mataafa to the Commission.*

MALIE, May 17, 1899.

YOUR EXCELLENCIES: We have received your letter of the 15th instant.

We thank you that we have been informed of your power to protect and do away with the difficulties which have grown in Samoa and to put right the rule for this country and to establish a good and strong government.

I agree to your excellencies with great respect.

I shall come to Apia with four high Faipules and the secretary, we will meet you on board of your ship (*Badger*). On Saturday (May 20) we will be here.

We hope to your protection that we will be safe on our way to here and on the return.

We are your true friends,

MATAAFA AND THE 13 CHIEFS OF TANUA AND PULE.

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[Inclosure 4.]

*Mataafa to the Commission.*

MALIE, May 18, 1899.

YOUR EXCELLENCIES: Kindly excuse us. We ask the following permission with respect: Could you meet us with some boats, offering us your protection that our

journey to Apia may be safe, because we do not wish any trouble to arise again between ourselves and Samoans who are in Mulinuu.

We shall leave Malie at 7 o'clock in the morning and desire to arrive on board the *Badger* at 9 or 10 o'clock.

We are, with respect, your sincere friends,

MATAAFA AND THE 13 CHIEFS OF TANUA AND PULE.

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[Inclosure 5.]

*The Commission to Mataafa.*

APIA, May 19, 1899.

SIR: We have received your letters of the 17th and 18th of this month, in which you inform us that you will call on us with four high chiefs and a secretary on Saturday next on board our ship the *Badger*.

We shall be pleased to receive you at 9 o'clock in the morning. Three men of war boats of the three powers, each bearing its flag, will arrive at Malie at 7 o'clock to escort you to our ship and bring you back.

We are, sir, yours faithfully,

[Signed by each commissioner.]

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[Inclosure 6.]

*Malietoa to the Commission.*

GOVERNMENT HOUSE, Mulinuu, May 15, 1899.

*Your Excellencies, greeting:*

We, the king and government of Samoa, are greatly rejoiced that you, the three high chiefs representing the great powers who framed the treaty of friendship at Berlin in 1889; that treaty has been the foundation of all administration of Samoa for many years; the rule also of Samoa is under that treaty.

We trust sincerely and hope that your sojourn in Samoa will be pleasant and successful. Anything we can do on behalf of the government of Samoa we will do in order that all the desires of you and your great Governments shall be accomplished; we will perform all things righteously. We trusted in days past in the treaty of friendship; we still obey all provisions of that treaty. Our desire is that we continue to act as in the past. We will obey all things the great powers shall determine.

We hope that the protection of the great powers will remain over this country.

Let all matters which are prepared for Samoa according to the great powers be successful.

With the utmost respect toward your Government we are very thankful on account of the friendship with Samoa.

By the full desire of the Government of Samoa the hand of His Majesty the King of Samoa is subscribed now, and the great seal of the King is affixed to it.

[SEAL.]

MALIETOA TANUMAFILI.

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[Inclosure 7.]

*The Commission to Malietoa.*

APIA, May 17, 1899.

SIR: We were glad to receive your letter of the 15th instant, and we take note with great satisfaction of your declaration that you and your government will obey in all things the desires of the three powers and of the commission.

The powers have learned with regret that the Samoan people have been unable to agree upon a king, and they have been shocked at the atrocities which have followed this disagreement. The three powers are agreed that peace should be established, the war ended, and all Samoans return peaceably to their homes.

They have sent us to take over the government of these islands now, and to prepare for Samoa a strong and stable government for the future.

Having only newly arrived we wish to acquaint ourselves with the condition of these islands before taking any action, and we hereby desire you to inform your

people of this, to enjoin them to keep quiet and refrain from all hostilities pending the decisions of the commission.

In a very short time it is our intention to request you to confer with us as to the measures best adopted for ending war and assuring the tranquillity of Samoa.

We are, sir, yours faithfully,

[Signed by each commissioner.]

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*Mr. Tripp to Mr. Hay.*

No. 3.]

APIA, Samoa, May 21, 1899.

SIR: I have the honor to inform you that in accordance with the correspondence between this commission and the high chiefs Malietoa Lanu and Mataafa, we received them on board our vessel, the *Badger*, Malietoa Tanu on Friday afternoon and Mataafa yesterday forenoon, each being accompanied by six of his principal chiefs and interpreters. The interview in each case was most satisfactory. We explained to each of them that the great powers had heard with much regret that the Samoans had failed to agree as to who should be their king to succeed Malietoa Leufiefa and had gone to war with each other, destroying life and property, until the war ships, sent here for their protection, were obliged to fire upon them to restore peace; that the great powers (great voices, as they call the three great powers) had sent the commission to inquire into the cause of this conduct on the part of the Samoans, to restore to each of the islands and to give them in future a strong government which should prevent the recurrence of such condition of things; that the powers were united in this and would enforce the action of the commission with the guns of the great war ships in the harbor, and, if necessary, would send others hither for that purpose. And we asked them to tell us frankly and freely why they were in arms, what they desired, and whether they would in all things obey the commands of the commission; that the commission deemed it necessary, in order to prevent further bloodshed and destruction of property, that all Samoans should give up their arms, disband their armies, and return at once to their homes and await the decision of the commission as to who should be their king and what form of government it would adopt.

Both Malietoa Tanu and Mataafa, together with the chiefs present, assented to these propositions with promptness and apparent willingness. Mataafa especially was profuse in his declaration of allegiance to the great voices. He said that while his soldiers—the soldiers of Mataafa—owned their arms, and had bought them with their own money, and while they did not belong to the great powers as did the arms now in the hands of Malietoa Tanu, yet if the great nations of Germany, the United States, and Great Britain believed it right and necessary to demand them in the interest of peace and good government they would obey. The commission replied that the great powers would never deprive any man of his property unnecessarily nor without just compensation; that if they would voluntarily surrender their arms and ammunition to the commission a detachment of soldiers would be sent to receive them, and when peace was restored and a good government established the arms should be returned to them, or they should be paid for both arms and ammunition at their full value. This seemed to please them, and all the chiefs present promised that they would do so at once.

The commission then told them that it would be best for them to call a meeting of their chiefs—a “fono” as they say—and submit to it what the commission required, so that there might be no misunderstanding nor disobedience on the part of any chiefs on the adjoining islands. Mataafa went away promising to send for all chiefs not already in his camp, to tell them what the commission had said, and to give the commission an early answer as to disbanding and delivering arms. The force of Malietoa Tanu is armed with guns belonging to England and the United States, and their disarmament, when necessary, will be a matter of form.

The commission also asked both Malietoa Tanu and Mataafa if they and each of them would submit to and acknowledge as their king either Malietoa Tanu, Mataafa, or any other chief that might be selected by the commission, and each of them, as well as their chiefs present, promised that they would do so. All of these chiefs were profuse in their words of submission and of gratitude, that the great voices had sent the commission to make peace, and they assured us again and again that they would obey every command of the united powers.

We are all much gratified with the result of these two interviews, the more so on account of the fact that we had been previously informed by those best acquainted with Samoan character, including missionaries and others who have been many years among them, they would never consent to deliver up their arms. The spirit of apparent confidence in the great powers and willingness to obey any requests of the commission sent to them also gave us great satisfaction, especially as every one tells us that they will keep all promises made. We take these statements with many grains of allowance and congratulate ourselves that we have made more rapid advances toward a peaceful settlement of these matters than those better experienced here gave us hope of so soon accomplishing. We expect within the next week to receive favorable answers from both these opposing factions and immediately to follow up the advantage gained by progressive results. These people are far from being savages. They are splendid specimens of physical manhood and all are well informed about matters of general information. They are nearly all Christians and very devout in their attachment to their church and religion. They have a very high appreciation of the power and civilization of the white nations but are slow to adapt themselves thereto. The climate makes them sluggish and content with what nature has supplied, while their love and fear of the whites lead them to rely upon and submit to what is required without inquiry or complaint.

The *Philadelphia*, which is just leaving for Honolulu, kindly consents to take this dispatch, and I must close with a promise to advise you at every opportunity of the progress made.

I have, etc.,

BARTLETT TRIPP.

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*Mr. Tripp to Mr. Hay.*

No. 4.]

APIA, SAMOA, June 16, 1899.

SIR: A little more than a month has elapsed since we dropped anchor in this beautiful harbor. It was then filled with the war ships of the

three great powers: Three on the part of Great Britain, one German, and two American, including the *Philadelphia* and the collier *Brutus*. On the shore soldiers were seen marching and flags of the different nationalities flying from the flagstuffs erected at each prominent point along the coast and over the plantations adjoining the municipality of Apia. Several hundred marines from the ships had been stationed for several weeks at the points of danger. About 700 natives, armed with British rifles and drilled by British officers, had been mustered into service for the defense of Apia, while over 2,000 other natives, adherents of Malietoa Tanu, were occupying the outposts of defense about the town. At a few miles to the west and east the native forces of Mataafa, about 3,000 in number, were resting on their arms behind improvised fortifications, leaving between themselves and the hostile forces of Tanu a neutral zone during the armistice agreed upon between them and pending the arrival of the commission. The country surrounding Apia indeed had much the appearance of a battlefield at the time of our arrival. The shells from the war vessels, fired to dislodge the forces of Mataafa, had left their marks upon the houses and plantations surrounding the town and within a radius of 3 miles from the inner harbor, while the lawless acts of looting and foraging parties from either camp had left behind them a scene of devastation and desolation which always succeeds the invasion of armed forces of savage or civilized men. Great tensivity of feeling existed on the part of the white population and the sympathy existing seemed to be about equally divided in favor of the success of Tanu and Mataafa as the rightful claimant to the empty honor of king.

The arrival of the commission, while awaited with some anxiety, was not looked forward to with confidence or satisfaction. The adherents of Mataafa did not believe that anything substantial would result from their visit, and the adherents of Tanu looked upon the commission as inopportunately interfering with their planned and expected victory over the forces of Mataafa. The commission therefore entered upon the work with neither the confidence nor the good wishes of the people it was sent to aid and protect. It set to work, however, with a determined will to restore peace and order and to try to improve the present and future condition of the native and foreigner here. They immediately opened rooms in the town accessible to the people and called before them all persons of long residence and experience in these islands and advised with them as to the government of the past, the cause of the past rebellion against their native chiefs, and obtained from them such views as they might have found in reference to the kind of government best adapted to the character and capacity of the people. The commission were particularly anxious and determined first to disarm the forces surrounding the town, and they directed their inquiries as to the best method of accomplishing this result. They consulted the missionaries, many of whom had been here more than twenty years, merchants whose business life had been spent in Apia, government officers of all grades whose official relations brought them more or less in contact with the native themselves, and naval officers who had become acquainted with native character by the unfortunate experience of actual war, and without a dissenting voice the commission was told that disbanding was possible but disarmament impossible; that next to his causing the native loved his gun; that he would surrender it neither by persuasion nor by force; he would bury it, throw it into the sea, and if need be destroy it, but never surrender it; that

disarmament had been repeatedly tried and had resulted only in the surrender of a few worthless guns which were soon replaced by others of modern manufacture and more effective use.

Notwithstanding these discouraging views the commission continued the correspondence with Mataafa, copies of which up to May 18 were sent you in my last, and on May 19 they received Tanu and his chiefs on board the *Badger*, informed him that they had come to restore peace and tranquillity to the islands, and that this, in their judgment, could not be done without a complete disarmament of all the natives and their immediate disbanding and return to their homes; that the commission would not take up the question of kingship till this was done. After a long interview (fono as they call it) Tanu and his chiefs promised to do so if the disarmament was made general, which the commission told them would be done. On Wednesday, May 20, the commission received Mataafa and his chiefs in the same way on board the *Badger*, told them what the commission had said to Tanu, reminded Mataafa of his promise on his return from Jaluit not to interfere with the politics of the islands; that he had not kept his promise, and that the great powers now expected that he would use his influence to obtain a disarmament of every native under his control; that the commission had determined to use all force at their command to accomplish this result; that the harbor was full of war vessels of the great powers, others were coming, and they could summon whatever force was necessary to produce this result; that the great powers were acting only for the best interests of Samoans; that they had tried to let Samoans govern themselves and select their own king, but they could not agree, had gone to war, killed each other, killed and mutilated brave white officers and soldiers, and put in danger the lives and liberty of all; that this must cease, and the surest and quickest way to have it cease was to have them give up their arms at once and prove to the great powers that they wanted peace, and that as soon as peace was restored the commission would give them a provisional government and provide a permanent government for the future. The commission said much more to the same effect, all of which was oral and said to them through an interpreter. Mataafa then replied that his people were tired of war; that they wanted peace; that he believed the commission had come to give them peace, and that he and his chiefs would obey what the great powers told them; that if the commission thought it necessary, in order to restore peace, that the people should give up their arms they would do so, but that the arms belonged to the natives themselves, not to the great governments as did many of the guns of Tanu; that his people were poor and had paid much money for these guns, and he thought the great governments ought not to take away the property of his people without compensation. I then told him on behalf of the commission that the great powers did not wish to take the property without paying for it; that it was peace, not their property, that the great powers wanted, and that if they would immediately give up their guns and ammunition they should be kept until peace was restored and they should then be restored to them or a fair compensation made therefor; that this offer would be held open until June 20, proximo, but that after that date all arms found in the hands of natives would be confiscated and the persons in possession thereof severely punished. Mataafa, after consultation with his chiefs, said the words of the great powers were honest and fair and they would obey, and would send the commission word when and where the guns

and ammunition would be given up. I then told him that the commission believed what he told them, but they feared some bad men would keep back their guns, and that some chiefs who were not there then might not consent to what he (Mataafa) had promised. The commission therefore advised that he (Mataafa) call a great fono, or meeting, of all the chiefs, tell them what the commission had told him, and if they all agreed to what he (Mataafa) had promised, then to send word to the commission when and where they would deliver up their arms and the commission would come with their ship, receive the arms, and give to the great chiefs receipts for the same. This pleased them and they left with the promise to hold their fono and inform us at once of the result. Several letters were subsequently received—copies of which are herewith inclosed—by which Wednesday, the 31st instant, and Malua were fixed as the time and place for delivery of the arms.

On the 31st of May we proceeded on board the *Badger* to a point opposite Malua, where we found native boats about thirty in number containing about one thousand natives and high chiefs with some 1,830 rifles and a small amount of ammunition awaiting us. Mataafa and his 13 high chiefs came on board and announced that they had collected the bulk of all the guns of his people and now brought them to the commission; that some of his people had gone to the distant islands with their guns but that these would be subsequently obtained and surrendered. We received and receipted for the arms, thanked the chiefs and admonished them to immediately return to their homes and to make peace with those who had been adherents of Tanu and against whom they had been waging war. They left us apparently very happy and we returned to Apia where we commenced the same night the disarmament of the forces of Tanu. This was continued on Thursday, June 1, until all were disarmed. The British rifles, except 100 which we retained as a precaution in the hands of the native police for a few days, were returned to the British ships and the native guns were receipted for to the chiefs as in the case of Mataafa. We obtained from the Tanu forces, exclusive of the British rifles, about fourteen hundred guns, and since the disarmament every day guns and ammunition have come straggling in from both the Mataafa and Malietoa factions, so that now we have on board in all at this date about three thousand five hundred guns, a small amount of ammunition, as well as some miscellaneous weapons of defense, and it will be necessary for the treaty powers to take some early action as to the disposition of the guns in accordance with the promise of the commission. They are not very valuable, and it would be better in my judgment to have them appraised and destroyed or packed away than to have them ever again returned to the natives. Everybody, of course, including ourselves, was much gratified and somewhat surprised at the fortunate result of our experiment. It was not of course a total, but substantial, disarmament. It is estimated that perhaps 500 guns are yet in the hands of natives and some of these we may never get, but we hope before the 20th of June arrives to have obtained the larger part of the guns still remaining in their hands. I sent you with great pleasure on the 31st ultimo by the Auckland steamer, which kindly waited a few hours to learn the result of the Mataafa disarmament, the following cablegram: "Mataafa disarmed. Over 1,800 guns surrendered," which I presume you received in due time.

Immediately after the disarmament we set to work to restore the

civil government of Apia and Samoa and get the people out from under military rule, of which everyone had become extremely tired. We issued at once a proclamation as to surrender of arms yet remaining in the hands of natives, a copy of which is herewith inclosed. We gradually directed the officers of the ship to withdraw sentinels from the public streets, called a city election in the West Ward of the city in which the offices of councillors was vacant, and then commenced consideration of some of the difficult questions involved in our mission. Without going into details of discussion it will suffice to say that after long discussion and in a fair spirit of compromise the commission was unanimous in their conclusion that the decision of the chief justice declaring Malietoa Tanu king, was valid and binding upon the commission, and that we must so recognize him. But we further came to the conclusion, after much discussion and many interviews with business men, missionaries, and natives themselves, that no permanent government could be maintained with an elective king. The title itself is of recent origin, the grandfather of Tanu being, in fact, the first chief crowned and anointed king. Every election or appointment of king has been followed by a revolution. A number of chiefs have always been in rebellion against the reigning king. It is at best a mere bauble, of value only as a prize for competition. It was believed that the succession had been provided for and could always be determined by the decision of the chief justice, but the history of that now former trial shows that it is always possible under the "laws and customs of Samoa"—according to which the king must be elected—to elect two or more kings at the same time, so that the decision of the court is no safeguarded against rebellion. The Samoans recognize no fixed principles of heredity; might, at last, determines not only the right of succession but the maintenance of it. I shall go into this question more at length in my final report accompanying the form of government, but for the present will only say the commission are quite unanimously of the opinion that if a tripartite government can be sustained here at all it can only be through a strong central government so guarded by checks and balances as to remove it from the petty intrigues that arise from international jealousies which are always developing under the reign of a weak native king. Having reached this conclusion we took occasion to have the new king informed of our views as to the permanent government we should recommend to the great powers. He thereupon asked an interview and orally said to us that if the kingship was to be abolished under the permanent government it would please him better, since he was anxious to resume his studies at school, if we would accept his resignation at once. We informed him that he could advise with his friends and chiefs and address us further in writing, which he subsequently did. A copy of his letter and of our reply being herewith inclosed. We therefore issued a proclamation, a copy of which is herewith inclosed, announcing our decision sustaining the decision of the chief justice, the resignation of the king, and investing the consuls of the three powers provisionally with the official duties of the king, continuing the office and duties of the chief justice and installing Dr. Solf as president of the municipal council until the further order of the commission, which facts I announced briefly to you in my cablegram from here of the 12th instant, as follows:

"Provisional government established; Tanu resigns; kingship abol-



ished; commission sustains decision;" which I presume was received in due time.

The provisional government has now been in force for some days and seems to be working smoothly. Great Britain has recalled her consul, Mr. Maxse, and Germany has recalled Mr. Rose, which is undoubtedly wise, since all of the officials here, more or less, have taken sides in the bitter personal and political matters which have formed a part of the recent unfortunate history of Samoa. Mr. Maxse's place will be supplied from the colonies and the vice-consul, Mr. Grunons, will act as German consul-general for the present. It is our purpose to preserve the best parts of the Berlin treaty, to have a governor or president sent here to take the place of the king, with a council having some legislative power so as to make the government somewhat more elastic than at present; to separate the municipality from the general government, making it purely local, and to give to the natives in their own districts the power of local self-government according to Samoan laws and customs. The Samoan makes a good chief, but is not broad enough to extend himself over numerous tribes and districts as king. It is believed here that this plan, when elaborated, will work harmoniously, and in theory it is even now popular with the natives. They say, "We want chief, no king." The question of kingship, in fact, seems to be popular only with those families who deem themselves eligible thereto. When we get our plan of government perfected we shall submit it to a great fono or meeting of the leading chiefs for their approval before we present it to our own governments.

We hope to be able to perfect the draft and to be prepared to submit it to the people here in time to leave for home early in July, proximo.

Everything is now peaceable and quiet in the islands. The chiefs and warriors have returned to their homes. The smoke is now seen ascending from the native cabins and plantations in every portion of the islands. The war song is discontinued, the war camp abandoned, and the happy, joyous nature of this unvengeful people manifests itself in the ready forgiveness of their enemies and their glad welcome of returning peace.

I hope this will last until we can get the permanent government in force. They are amiable, confiding people. They still trust the white man, who has so often deceived them. They admire greatness and strength. They trust the white man because he is great and strong. One government could control them without murmur or complaint. Three may do so while unity exists, for the weakness of a tripartite government does not consist in its form but in its administration. The fever of international strife prevalent with the white people of Apia has spread into official life and become epidemic with the natives themselves. I shall dwell more at length upon these questions in my final report. I may say, however, in confidence that I have not an abiding faith in a government by three great powers over a people of a composite origin. It was Napoleon, I believe, who said, when it was desired to associate Kellermann with him in command of the army, "Better one bad general than two good ones," and I fear the rule applies with too much force in the government by three great powers. As everyone can but believe that such a government must be temporary in character, it is to be hoped that an opportunity may soon be afforded us by which we can retire from this entangling alliance and reserve to

ourselves the benefit of our original treaty with the Samoan Government. I shall visit Pago Pago next week and shall give you my further impressions of the harbor and of the islands outside of Upolu and Apia. The engineer and men are here for the construction of a wharf and coal sheds at Pago Pago and were taken there by the collier *Bru-tus*, they having arrived on the mail steamer from San Francisco and their vessel with supplies not having yet reached this port.

I inclose herewith concluding correspondence with High Chief Tanu and Mataafa and copies of proclamations to which I have already made reference. You will find also inclosed a photograph,<sup>1</sup> taken at the time of the disarmament of Mataafa, showing a portion of the native boats delivering their guns on board the *Badger*, also a clipping<sup>1</sup> from the Herald, the only newspaper in Samoa, just issued, commenting upon the work of the commission.

Should anything important further occur, I will cable you when the next steamer goes to Auckland, about June 30, instant, otherwise you will perhaps hear nothing further from me until my return to America. Any communications you desire to make will intercept me at Honolulu, in care of our consul, or at San Francisco at the Palace Hotel.

I remain, etc.,

BARTLETT TRIPP.

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[Inclosure 1.—Translation.]

*Mataafa to the commission.*

MALIE, May 26, 1899.

GENTLEMEN: We have the honor to state to your excellencies that our fono ended as we declared it would do at our first meeting.

We accept entirely the provision respecting arms and ammunition. The guns at present with us here we will deliver up to be dealt with by you. Some men have handed over guns to their relations who have taken them away, they having heard that the war was ended through your arrival in Samoa. We are ordering all such persons to deliver up all such guns. The guns in hand will be delivered up first; the remaining guns will be delivered up when they are collected together. We have confidence in your promise that the arms will not be distributed to any persons.

We are, with respect,

MATAAFA AND 13 CHIEFS OF TUNUA AND PULE.

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[Inclosure 2.]

*The commission to Mataafa.*

APIA, May 26, 1899.

GENTLEMEN: We have received your letter handed to us by your secretary. The three high commissioners are much gratified by your reply, in which you promise to hand over your arms to the three great powers. We will keep them and either return them to their owners or pay for them. All troops of Malietoa will be disarmed on the same day under similar circumstances.

It is the intention of the three high commissioners to attend the total disarmament of your troops in person. Your secretary has named Tuesday, May 30, but if possible we should prefer Monday. The three high commissioners will come by boat, accompanied by an escort of the three powers.

We are, gentlemen, yours, faithfully,

[Signed by the three commissioners.]

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<sup>1</sup> Not printed.

## FOREIGN RELATIONS.

[Inclosure 3.—Translation.]

*Mataafa to the commission.*

MALIE, May 27, 1899.

GENTLEMEN: We received your excellencies' letter stating Monday, the 29th instant, to be the day on which you would come to Malie. I comply with this entirely; so do all our chiefs.

But we ask, with respect, that if it meets your wishes, Wednesday, the 31st instant, may be appointed, so that I may be able to bring the guns which are at Savaii, and deliver them together to you. Asking pardon for this,

We remain, yours, truly,

MATAAFA AND 13 CHIEFS OF TANUA AND PULE.

[Inclosure 4.]

*The commission to Mataafa.*

APIA, May 27, 1899.

GENTLEMEN: We have received your letter of the 27th instant, in which you express the desire that we postpone the day of our coming to Malie in order to witness the handing over to the three great powers of all the arms and ammunition now in the hands of your people. You name Wednesday next, May 31.

In order that no doubt may remain that all the arms have been collected, we assent to the date of Wednesday. The high commissioners will arrive off Malua early on Wednesday morning, May 31, on board their steamer, the *Badger*, and will receive the High Chief Mataafa and the thirteen chiefs on the *Badger* as soon as they arrive. The *Badger* will fly the colors of the three great powers. All arms and ammunition must be carried over from Malie to Malua, stored on the beach, and transferred from there by native boats to the *Badger*. Each chief must hand in the arms and ammunition of his district, and a receipt will be given him for the number surrendered.

We are, gentlemen, yours faithfully,

[Signed by the commissioners.]

[Inclosure 5.]

*The commission to Mataafa.*

APIA, June 1, 1899.

GENTLEMEN: The high commission yesterday, upon its return to Apia, began the disarmament of the people at Mulinuu. The British rifles have been returned to the British ships of war, the rifles of the native Samoans deposited on board the *Badger*, and the guns mounted on shore will be returned to the war ships. One vessel has already carried a load of women and children to Tutuila and another leaves to-day with 700 men on board.

Malietoa Tanu, who was declared King by the chief justice, will be permitted, with some of his followers, to remain at Mulinuu until the high commission can decide the question of kingship. The other chiefs have been directed to retire to their homes at once, except a small force of 100 men, which the high commission has deemed it prudent to retain at Apia for a short time as a police force for the protection of property.

The high commission has issued a proclamation calling upon all native Samoans to surrender any arms and ammunition still remaining in their possession on or before June 20, 1899. After that date all arms and ammunition found in the possession of native Samoans will be confiscated, and the person or persons found in possession thereof severely punished.

The high commission expresses its gratification at the promptness with which Mataafa and his chiefs have complied with the request to surrender their arms, and the high commission now enjoins them to immediately return to their homes, to prevent any burning of houses or looting of property, and to use every effort to bring about an immediate reconciliation between themselves and the followers of Malietoa Tanu, in order that peace may at once be restored to all Samoa.

We remain, gentlemen, yours faithfully,

[Signed by the commissioners.]

[Inclosure 6.]

*The commission to Malietoa.*

APIA, May 27, 1899.

SIR: It will be within your recollection that when you visited us on the *Badger* you declared your readiness to disarm your troops when the commission should require it.

Mataafa has promised the commission to give up all his guns and ammunition, and he states that he is now collecting guns and ammunition from Savaii in order to deliver them to us. We shall go by steamer to Malua early on Wednesday, the 31st instant, to receive them. On our return, when Mataafa has given up his guns and ammunition, we will receive your guns and ammunition in the same way as we received his. The guns and ammunition will remain in our keeping, and when the present troubles are over we will either give them back to their owners or pay to their owners a fair compensation.

We are, sir, yours, faithfully,

[Signed by the commissioners.]

[Inclosure .]

*Malietoa to the commission.*

GOVERNMENT HOUSE, MULINUU, May 29, 1899.

SIRS: His Majesty Malietoa Tanumafili acknowledges with great respect a communication handed to him by Lieutenant Gurner, R. N., of Her Britannic Majesty's navy, and bearing the subscription of the commissioners of the three treaty powers.

His Majesty's government desires to state its entire accord with the proposal to collect all arms and ammunition of Samoans and the desire of the government to render all possible assistance to the commission.

It is understood by His Majesty that when Mataafa has delivered all guns and ammunition of his party to the commission it is required of him to disarm the troops of the government of Samoa.

It is presumed that the commission will not insist upon the delivery of arms and ammunition by the government troops until they are convinced that there has been an honest, actual compliance with the requirement made upon the Mataafa party and that all their guns have been delivered to the commissioners.

Section 1 of article 7 of the Berlin treaty provides that the government of Samoa retains the right to import "suitable arms and ammunition to protect itself and maintain order." If, therefore, the commissioners require the delivery of all arms and ammunition, thus leaving the government without available means to protect itself and maintain order, the government asks the commission to guarantee, on behalf of the three powers, such protection and order, and that the three powers will protect the lives and property of all Samoans who have conformed to the Berlin treaty from further assault or molestation by those who have defied the Berlin treaty.

His Majesty and government have faith that the three powers will keep to the treaty.

I am, your most obedient and humble servant,

MALIETOA TANUMAFILI.

[Inclosure 8.]

*The commission to Malietoa.*

APIA, May 30, 1899.

SIR: In reply to your letter of May 29, we beg to state that it is our intention to first take the arms and ammunition of the Mataafa party, and after we have assured ourselves that they have disarmed, to receive your arms and ammunition. Secondly, we shall take measures to preserve order and protect every person in Mulinu.

We are, sir, yours, faithfully,

[Signed by the commissioners.]

## FOREIGN RELATIONS.

[Inclosure 9.]

*Resignation of Malietoa.*

I, Malietoa Tanumafili, having been informed by the high commissioners that the decision of the chief justice appointing me King of Samoa is valid and irreversible, but desiring to devote the next few years to my education, do hereby voluntarily and of my own accord resign the office of King of Samoa.

MULINUU, June 10, 1899.

MALIETOA TANUMAFILI.

[Inclosure 10.]

*The commission to Malietoa.*

APIA, June 10, 1899.

SIR: We have had the honor to receive your communication of this day's date, stating that you have been informed by the commission that they regard the decision of the chief justice appointing you King as valid and irreversible, but that you wish to devote the next few years to completing your education, and therefore resign the kingship of this island.

In these circumstances we accept your resignation and beg to offer you our best wishes for your progress and prosperity.

We are, sir, yours, very faithfully,

[Signed by the commissioners.]

[Inclosure 11.]

## DISARMAMENT PROCLAMATION.

The high commission, appointed by the three great powers to take over the government of the Samoan Islands, having, by virtue of the supreme power in them vested, and in order to maintain peace and to establish a firm and stable government, required all native Samoans to surrender their arms and ammunition, and such requirements having been in part complied with, notice is hereby given that all arms and ammunition still remaining in the hands of the native Samoans must be delivered to the commissioners at their rooms in the International Hotel, in Apia, before the 20th day of June, 1899; that receipts will be given for all arms and ammunition so received, and the same will be returned to their owners after the restoration of peace or full compensation made therefor; but that all arms and ammunition remaining in the possession of native Samoans after June 20, 1899, will be confiscated, and the person in whose possession the same may be found will be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

High Commissioner of the United States,  
BARTLETT TRIPP.

High Commissioner of Germany,  
H. STERNBERG.

Her Britannic Majesty's High Commissioner,  
C. N. E. ELIOT.

APIA, June 1, 1899.

[Enclosure 12.]

## PROCLAMATION CONCERNING GOVERNMENT.

Whereas the great powers of Germany, Great Britain, and the United States of America, for the purpose of restoring tranquillity in the island of Samoa and establishing a provisional government therein, have invested the high commission with supreme power and authority; and whereas, the decision of the chief justice declaring Malietoa Tanumafili to be king is considered by the high commission as valid and binding; and whereas the said Malietoa Tanumafili has voluntarily tendered to the high commission his resignation as king and the same has been duly accepted;

and whereas the high commission has decided to abolish the office of king in Samoa: Now therefore,

Notice is hereby given that during the stay of the high commission in Samoa, unless orders to the contrary are issued, all the official duties of the king and his councilors will be performed by the three consuls of the great powers, a majority of whom are authorized to act in all cases where by the treaty of Berlin unanimity of action is not required. The chief justice will continue to exercise the duties of his office, Dr. Solf is authorized to enter upon the duties of his office as president of the municipal council of Apia, and all other officers of the said municipality will continue to perform the duties of their respective offices.

BARTLETT TRIPP,

*High Commissioner of the United States.*

C. N. E. ELIOT,

*Her Britannic Majesty's High Commissioner.*

H. STERNBERG,

*High Commissioner of Germany.*

APIA, June 10, 1899.

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*Mr. Tripp to Mr. Hay.*

No. 5.]

APIA, Samoa, July 4, 1899.

SIR: The *Brutus* leaves here to-morrow for Guam, via Honolulu, and, hoping this may intercept the San Francisco regular mail, so as to reach you sooner than by the regular steamer from Auckland, I improve the opportunity to continue the thread of political events and to inform you generally of such matters of interest as have occurred since my last.

Everything remains quiet on the island, except some disturbances of a local character, growing out of personal and individual animosities, an example of which occurred last week. A wounded man was brought into Apia, with the report that upon his attempted return to his village and home, in accordance with the previous order of the commission, he had been attacked and severely injured. We immediately sent the *Torch*, a small English gunboat of light draft, around to the scene of difficulty, had the chiefs and parties engaged in the disturbance brought on board, and found, upon inquiry, that the trouble had grown out of an old feud antedating the recent hostilities, although intensified by them; that when the wounded man and his friends sought to return home his former enemy personally attacked him, and the quarrel was taken up by friends of either party, and would have become general but for the timely arrival of the high chief, who succeeded in putting an end to it, but not before several were wounded. The chief who caused the trouble was asked by the captain of the *Torch* why he had disobeyed the orders of the commission, and he excused himself by declaring that he was personally avenging his wrongs, not disobeying the commission. The captain then informed him that he must apologize, shake hands, kiss, and make up, according to Samoan fashion, or he would be obliged to bring him before the commission. The high chief, Suetale, who was present, told the chief that he must make up and promise to allow this man and all other Malietoa men to live peacefully at their homes, or he would be deported or in some other way punished by the commission. The chief yielded at once, and all present representing the two factions—high chiefs, chiefs, and common people—made up, kissed, rubbed noses according to Samoan fashion, and left the ship promising to obey the orders of

the commission in all things. One or two other smaller personal encounters have occurred, but we have treated them all in a similar manner, and nothing serious has resulted therefrom.

A few days ago we invited all the leading chiefs of the islands on board the *Badger*, and having first addressed them separately, and having obtained from them the expression of a desire to make up and to live in peace with the people of the opposite party, we brought the chiefs of both sides together and witnessed their reconciliation. It was indeed an affecting scene. They are very emotional people, and, after a few speeches made on either side in reply to our address, they extended hands, then fell on each other's necks and kissed and made all the demonstration of children in emphasizing their promises to live in peace and to use every effort with their people to induce every member of each tribe within their districts to forgive and forget and to be good friends in the future. This war, unlike those of the past, has divided nations, tribes, and kin. Tamasese, who belongs to the Tupua or Mataafa side, has been the right-hand man of Malietoa Tanu, while Faalata, the cousin of Tanu, has been an ardent supporter of Mataafa. Families, even, have been divided, and it is no unusual thing to find a father and some of his sons on the one side, while the remaining sons have been ardent partisans of the other. This will aid and make more permanent any reconciliation we may be able to bring about; for, as "blood is thicker than water," so are relations of the same blood more easily and permanently reconciled than strangers and enemies. We shall immediately bring together Mataafa, Tamasese, and Tanu, the royal chiefs, who have already manifested a willingness to meet each other. Should this prove successful, we propose to go around the islands and meet the people of each separate district in "fonos," as they call such meetings, have public reconciliations, explain the purpose of the commission in reference to the future government, and exact obedience and loyalty of the chiefs and leading men of each tribe and district. Should this terminate successfully, we hope to be able to leave the islands in such peaceful condition that it may continue until the permanent government shall have come into effective operation.

Our plan of permanent government comprises three commissioners or councilors, appointed one by each of the three great powers, and an administrator or chief executive officer of all the islands, to be appointed from some neutral nation, unless the nations agree upon some person of the nationality of one of the powers. These three councilors are to have a limited legislative power. They shall also form an executive council, advisory to the administrator, and individually may perform, at the designation of the administrator, the duties of assessor and collector of customs, treasurer, attorney-general, and other quasi-executive duties, and may also, if desired, exercise consular functions for their respective nations. The administrator will have strong executive powers, appoint all minor officers, etc., and have general supervision of the islands. The King, who was a mere figure-head, and the reasons for whose retirement I shall give at length in my final report, has forever retired, and his office has been forever abolished, with the approval of everybody, the whites as well as the natives themselves.

The extritoriality of the consuls, which has produced more difficulty and aroused and fostered more national animosity than any other

one thing permitted under the Berlin act, has been abolished also, with perhaps the unanimous approval of every foreigner on the islands, and the jurisdiction of the consuls conferred upon the supreme court, which will consist of a chief justice, as under the Berlin act. We have also enlarged the jurisdiction of the municipal magistrate, giving him jurisdiction of civil cases, which he did not before possess, to the extent of \$50, and abolished the office of president of the municipal council, providing in his place a mayor, appointed by the administrator, upon the nomination of the municipal council. You will, therefore, see that we have preserved all the main features of the Berlin act, making here and there amendments found necessary by experience and the too strict interpretation of its provisions. The principal amendments are the abolition of the kingship and the consular jurisdiction, and the granting of a limited power of legislation conferred upon the legislative council. This was found absolutely necessary under the strict construction given to the Berlin act. We found after our arrival that, as commissioners, we were obliged several times to make rules having the force of law, to prevent anarchy and punish crime in cases not provided for at all by the treaty, and it requires no argument to maintain the self-evident proposition that an act of the brevity of the Berlin treaty can not provide for every contingency that may arise in the government of islands like these. There must be provided somewhere a certain expansion or elasticity which will make the act self-adjusting. This we have aimed to provide for in the limited power of legislation given to the legislative council, subject to the control at all times of the three powers themselves. We have endeavored to retain, as far as possible, the general plan, scope, and symmetry of the Berlin act, and we believe if it be possible to maintain a tripartite government of the three great powers over these islands—I use the word “possible” with a full understanding of the doubt it implies—we are quite unanimous that it must be along the lines suggested. Such a government must be strong, simple, and economical.

The character of the people to be governed is of primary importance in the consideration of the form of government best adapted to their requirements. In these islands the government must be so simple as to be easily understood, and so strong that disobedience can be immediately punished; besides, their financial condition does not permit that the number of officials exceed those absolutely needed for a ready and intelligent administration of its functions. We have examined the question with care and can see no possible objection, should the powers so elect, to make use of the members of the legislative council as consular agents, and thereby relieve the Samoan treasury of a large part of the salary to be paid them as councilors, while their employment as treasurer, customs officers, attorney-general, etc., will give to them the advantage of the salaries paid similar officers under the present government, so that on the whole the plan proposed will be even less expensive than the present one. To obviate the possible objection that the government proposed partakes of the character of a protectorate and makes no provision for education of the natives in the matter of self-government, looking to their future autonomy or independence, we have provided for a governor in each district, to be selected by the natives, and for a native government within each district, leaving to the natives within their several districts the largest amount of indi-



vidual liberty and the right of governing themselves according to their Samoan laws and customs, reserving to the Samoan government only the right to protect the natives of one district against those of another, where the rights or liberties of either are violated, or where felonies are committed by natives against each other and are permitted to remain unpunished.

We have further provided for a native assembly, composed of the governors of the different districts, which is authorized to meet in Apia each year, and to frame such laws and make such recommendations in reference to native affairs as they may desire, and such recommendations, when approved by the administrator and council, shall have the force of law. In this way it is believed the native can be at least interested, and perhaps so far benefited that he may be able to give promise of such ability in the future as may enable him to take some part in the affairs of the general government. So far any attempt at government by the King and his councilors has been such a lamentable failure that no time has existed in the past when a large number of the most populous districts were not in open rebellion against them, and when the so-called government has not been one of violation and of easy if not corrupt control. A few gunboats may be necessary here yet for some time to give moral and perhaps effective support to the commands of the new government, but it is believed that the strong central government herein provided will not only be most acceptable to the natives themselves, but also the only government that will protect the rights and liberties of the white people, who have suffered so much from maladministration of native government in the past. In my report to the Department I shall review somewhat at length the causes that led to the unfortunate state of affairs in these islands and the reasons that actuated us in proposing the changes and amendment to the Berlin act in forming the permanent government. We shall leave the provisional government in the hands of the three consuls, with an administrator, if one can be found here satisfactory to all the commission. I shall come to Washington immediately upon my return, to make my final report and urge immediate action upon our work, so that in case the government proposed be approved it can be put in operation at the earliest possible moment.

I am happy to inform you that, while at first the minds of the different members of the commission were not quite unanimous upon all questions that came before it, by the exercise of some forbearance and the wisdom that comes from diplomatic experience we have on the whole reached conclusions reasonably satisfactory to each member of the commission. I can not speak too highly of the conduct of the German member of the commission. With one less experienced, less honorable and conscientious, representing the great Empire of Germany, our task would not only have been difficult, but I fear a hopeless and unprofitable one. We are now nearly through with our labors here, and should nothing occur to indicate that peace is not fully restored, we shall hope to leave here about July 14 for San Francisco and home, bringing with us a unanimous report of our work, supplemented by individual and confidential reports each to his own Government.

You will therefore not probably hear from me again until my arrival in America, and not again as to matters here except as may be contained in my final report. I hope, however, to have the pleasure of saying

to you orally some things so difficult and some perhaps not well to be committed to paper, which will give you a better understanding of our work than my dispatches or report can possibly do.

I have, etc.,

BARTLETT TRIPP.

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*Mr. Tripp to Mr. Hay.*

No. 6.]

APIA, SAMOA, *July 13, 1899.*

SIR: I have the honor to inform you that since my last dispatch, bearing date of July 4, 1899, the commission has visited the islands of Savaii, Manono, Apolima, and the different districts of Upolu, holding nine large meetings, or fonos, one in each district of the separate islands. The meetings were very largely attended and reconciliation was made between the followers of Malietoa and Mataafa, which seemed to be sincere and genuine. At these meetings all the high and common chiefs met the commissioners at their fono, or meeting places, addressed them in long Samoan speeches eloquent with gratitude for their restoration of peace, the abolition of the kingship, and the preparation for them of a good government.

At these meetings the commission took occasion to explain the reasons for the proposed abolition of the kingship; that the election of a king had always brought them war; in the past some portion of the islands has always been in rebellion against the King; that a strong government is necessary in these islands to protect the interests of the natives as well as those of the white men, and therefore the commission believed it better that there should be no king, but that some good white man should be sent to take his place. To this the chiefs almost unanimously responded that they were glad this troublesome question was at an end; that Samoans were born chiefs, not kings, but that kings had to be made by the chiefs; that all the great chiefs wanted to be king and war must always inevitably result, for only the chief who proved himself most powerful in war could finally be king. It was better, therefore, that the chiefs should rule, as they were born to rule, in their districts, and that the white man's government should protect them against other nations and against themselves. The meetings were very interesting and the commission had much opportunity to observe the native as he is—in his village and at his home. They are an amiable, simple people, confiding yet suspicious and jealous, emotional yet subtle and diplomatic, excitable yet crafty and cunning. They are contradictory, unlike others and unlike themselves. Their behavior at times takes on the appearance of treachery, but this phase of conduct it is believed arises from the kaleidoscopic side of their character—their passionate, emotional nature, which prompts to change of purpose and action—than a predetermined intention to violate faith or solemn promises. Their thought bursts into action like dynamite from any sudden cause, and they become again gentle and mild when the excitement once has passed, harboring no malice and exhibiting no feelings of resentment or revenge. They are reconciled as quickly as they are angered. The government of such people must be a strong and active one. A quick rather than a powerful restraint is necessary to maintain order and inspire confidence among them. We have called

a meeting of all the important chiefs of the island to meet here to-morrow, at which time we shall explain fully to them all the changes proposed in the government under the treaty of Berlin and obtain from them a sanction to the changes so proposed. If the meeting is satisfactory and everything succeeding the meeting indicates a continuance of peace, as would now appear most probable, the commission intends to leave here on Monday or Tuesday, July 17 or 18, for San Francisco and home.

The commission, as I wrote you in my last, has agreed upon all the essential matters of difference existing here. The causes of the hostilities in existence at the time of our arrival here have also been stated by the commission in their joint report. These causes will be amplified and perhaps qualified by the individual commissioners in their separate reports to their own Governments. The joint report is now agreed upon and will be extended, signed, and forwarded to you by the next mail, and my individual report will follow at the earliest moment possible.

The guns taken from the natives we are obliged to take with us to San Francisco. We do not dare to leave them on shore for fear they might, in case of an outbreak, be seized by the natives again, and the knowledge that they were so stored might be an incentive to insurrection. We tried to get the three war vessels in the harbor to take them, but they have no room on board; so we have concluded to take them to San Francisco and leave them at Mare Island until their disposition is determined upon by the powers. We have taken the precaution to have these arms appraised by officers detailed by the three powers, and I will send you the number of guns, which amounts approximately to 3,400, and their value as appraised, in my final report.

I have, etc.,

BARTLETT TRIPP.

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*The Commission to Mr. Hay.*

APIA, SAMOA, July 18, 1899.

SIR: We have the honor to submit herewith to the consideration of our three Governments the inclosed draft of a modified and amended version of the act of Berlin.

In preparing these modifications and amendments our method has been to consider, first, what are the evils which have caused the recent troubles in Samoa and the generally unsatisfactory condition of the islands, and, secondly, what are the measures most likely to remove or minimize these evils.

The chief evils may be, in our opinion, grouped under four heads:

1. Those which appear to inevitably attend the election of a king in Samoa and his subsequent efforts to exert his authority.

2. Those which are due to the rivalry of the foreign nationalities between themselves and to their disposition to take sides in the native politics and thus increase the importance and bitterness of the disputes which arise.

3. A third class of evils have their origin in the fact that for many years there has been no law or government in Samoa other than native custom outside the limits of the municipality. Murder and other serious crimes have remained unpunished when committed by persons of

rank, and the supreme court and the nominal government at Mulinuu have been equally powerless to exert any controlling force.

4. The insufficient enforcement of the customs regulations has allowed unscrupulous traders to distribute large numbers of arms among a native population rent by political factions and ready to fight both one another and Europeans.

To meet the first of these evils we have temporarily abolished the kingship and recommend that it be permanently abolished. The action which we have taken in the matter does not appear to have aroused any hostile feeling among the natives.

No doubt many great chiefs regret that they will no longer have an opportunity of gratifying their ambitions and indulging that passion for rank and ceremony which is innate in the breast of every Samoan.

But even the chiefs have acquiesced in the change; some of the most important have stated that they think it is for the good of Samoa, and we believe that the mass of the population, unless worked upon by extraneous influences (which is unhappily not impossible), will assent to the abolition without a murmur and without regret.

Every white man, German, English, and American alike, who has given evidence before the commission (with the exception of one or two lawyers who had private interests in the case) has recommended the commission to do away with the kingship, and we may also refer to the opinion of Sir E. Malet, recorded in the protocols of the conference of Berlin, and of Mr. Bates, in his report on Samoa.

It seems impossible to say of the office any good whatever. It is comparatively modern as an institution. It served no useful purpose. In recent years at any rate the King had no authority or practical power to even collect taxes beyond the limits of the municipality, and within those limits his authority was superfluous. The greater part of the population was for all intents and purposes in permanent rebellion against him, and the mere fact that orders were issued through him was liable to provoke disobedience in many districts.

Further, it seems impossible to devise any plan by which an undisputed or even peaceful succession can be secured. The kingship depends on a grant of certain titles by certain districts. They are in the gift not of the whole population, but of small bodies of electors who owe their position to their rank. Even among these electors the principle that the majority of the vote bestows the title is not accepted, and the gist of all the "laws and customs of Samoa" is that there is nothing to prevent two candidates from being duly elected King at the same time.

Formerly the claims of such rivals were decided by force of arms, but the framers of the act of Berlin, who evidently thoroughly understood Samoan custom and practice in this matter, laid down that "questions respecting the rightful appointment of King shall not lead to war, but shall be presented for decision to the chief justice of Samoa." Recent experience has unhappily proved that an attempt to settle the question in this way also leads to war, and we are therefore strongly of opinion that the only chance of preventing such dissensions in the future is to abolish the office which provokes them.

In the place of the kingship we propose to create a system of native government, analogous to that which works successfully in Fiji. The islands will be divided into certain administrative districts (corresponding as near as possible with those recognized by Samoan usage) for

each of which a chief will be responsible, and these chiefs will meet annually at Apia in a native council to discuss such matters as interest them and make recommendations to the administrator and council. Native courts will be allowed to punish minor crimes according to native law and customs, and every provision has been made to secure the Samoan population complete independence and self-government.

We fear, however, that the same causes which produced rival kings will long continue to produce rival chiefs, who will claim the post of provincial governor and create continual dissension. To guard against this danger we have made provisions in Article III which empowers the administrator to himself appoint the governor in case any dispute should occur.

Perhaps the evils which it is least easy to cure are the second class, those which arise from the rivalry and mutual hostility of the different nationalities. This hostility permeates all departments of life. The traders on one side combine against those on the other. The municipal council is divided into two parties, each determined to support its own programme and defeat that of the other.

Proposed reforms and measures are judged not on their merits, but by party consideration, and officials, however impartial they may wish to be, are considered to belong to one side or the other, according to their nationality, and inevitably end by becoming more or less partisans.

From the very commencement of the late contest for the kingship it was no mere native quarrel between Mataafa and Tanu. On the one side were ranged one foreign nationality and its officials, and on the other side two other nationalities, with their officials; and the contest was prolonged and not allowed to reach its natural termination.

We do not think it will ever be possible to do away with this state of things under a tripartite administration, and we take this opportunity of recording our opinion that the only natural and normal form of government for these islands, and the only system which can assure permanent prosperity and tranquillity, is a government by one power. We regard it, however, as beyond our province to make any but a general statement on such a subject, and we have endeavored to amend existing arrangements in such a manner that they may prove, if not entirely satisfactory, at least workable.

We propose to introduce an element of unity and centralization into the government by the appointment of an administrator, who will doubtless be chosen from some disinterested power. He will be assisted by a council of delegates from the three governments, who might exercise such consular functions as are necessary at Samoa. We propose to give this administrator a large measure of authority, which, if exercised by a just and capable man, should enable him to put an end to many disputes.

We propose that the administrator and the three delegates should form a legislative council, and we have introduced into the act several clauses giving them the power to modify existing laws and ordinances.

We are of opinion that the original act of Berlin was drafted and has been construed in too rigid a manner, and that greater elasticity in its provisions would have a beneficial effect. We have therefore empowered the council to make such alterations as it may think fit in the boundaries of districts, the details of native government, and other matters enumerated in the proposed amended act.

Thirdly, we hope to create a greater harmony among the white residents by abolishing consular jurisdiction. We believe that in other parts of the world such jurisdiction prevails only where the laws of a country are, for religious or other reasons, not suitable for application to foreigners. But the chief justice of Samoa is an American or European and administers American and European law; it would appear therefore that there is no reason why he should not take cognizance of all suits brought against foreigners, nor why foreigners should enjoy privileges of extraterritoriality except that of being amenable to the jurisdiction of native courts which will deal only with such matters as are decided according to native custom. Hitherto consular jurisdiction has been a powerful means of embittering international strife in Apia. Each nationality has had its own law, and the consul who administered that law was popularly regarded not as an impartial judge, but as the protector of his own nationality.

We believe that by abolishing this outward sign of separate national institutions and by submitting all nationalities to one court and one law a great advance will be made in the direction of removing petty rivalries and jealousies and restoring good relations between the various white colonies.

The third class of evils arises from the lawlessness now prevailing in Samoa outside the municipality. For many years there has been no law in these districts, and native institutions permitted chiefs to commit crimes with impunity. Murder, theft, and other offenses were left unpunished, and trade suffered, owing to the difficulty of affording planters adequate legal protection in their dealings with the aborigines. We hope to improve this state of things by giving the chief justice an enlarged jurisdiction over all the islands, so as to include all cases between natives and foreigners, as well as the higher grade of crimes committed by natives against each other.

To lighten the work of the supreme court we have made the municipal magistrate a court of first instance within the limits of the municipality.

Fourthly, we have felt it our duty to deal somewhat severely with the importation of arms and ammunition into Samoa. The prohibition existing in the treaty has become a dead letter; the management of the customs has been exceedingly lax, having been largely in the hands of merchants who naturally found it convenient to have easy regulations. Private commercial houses have been allowed to discharge goods direct into their own receiving sheds without any examination, and, though we make no specific accusations, it is clear that there can have been no difficulty in introducing large quantities of arms and that arms were so introduced.

We therefore feel it essential that the customs regulations should be stringently enforced under the supervision of the administrator, and that adequate customs accommodation with an adequate staff shall be provided with as little delay as possible.

The amendments to the treaty of Berlin, which are herewith submitted for the consideration of the great powers, have been determined upon after consultation with all the leading white inhabitants of Apia, and after conferences with all the leading chiefs on the islands.

The commission visited every district of the islands in person, and held meetings of the natives, brought about reconciliations between

the Tanu and Mataafa factions, and learned the views of the people in regard to the forms of native government most acceptable and best adapted to their requirements.

The commission thereafter, on the 14th of July, 1899, so soon as it had formulated its views and determined upon the amendments necessary and proper to be made, called a meeting of all the leading and common chiefs of both Malietoa and Mataafa factions at Apia, at which meeting about 450 chiefs of all rank were present, and the commissioners there explained the general propositions contained in the proposed amendments, and the same were then and there agreed to and unanimously adopted, and thirteen chiefs from either side were selected to ratify and adopt such proposed amendments by affixing their names thereto, and their names will be found appended to the copy of the amended general act which is herewith submitted.

We have the honor to be, with expression of the highest consideration,  
Your obedient servants,

BARTLETT TRIPP,  
*Commissioner of the United States.*

H. STERNBURG,  
*High Commissioner of Germany.*

C. N. ELLIOT,  
*Her Britannic Majesty's High Commissioner.*

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#### ARTICLE I.

A DECLARATION RESPECTING THE NEUTRALITY OF THE ISLANDS OF SAMOA AND ASSURING TO THE RESPECTIVE CITIZENS AND SUBJECTS OF THE SIGNATORY POWERS EQUALITY OF RIGHTS IN SAID ISLANDS AND PROVIDING FOR THE IMMEDIATE RESTORATION OF PEACE AND GOOD ORDER THEREIN.

It is declared that the islands of Samoa are neutral territory in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection. None of the powers shall exercise any separate control over the islands or the government thereof.

It is further declared, with the view to the permanent restoration of peace and good order in the said islands and in view of the difficulties which have always attended the selection of a King and the maintenance of his authority against the frequent rebellions incited by the rival chiefs, that the office and title of King is and forever shall be abolished in Samoa, and that the authority of chiefs therein shall hereafter be limited to the district in which it may be recognized, as hereinafter provided.

#### ARTICLE II.

A DECLARATION RESPECTING THE MODIFICATION OF EXISTING TREATIES.

Considering that the following provisions of this general act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the three powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this act shall be inconsistent with any provisions of such treaty or treaties the provisions of this act shall prevail.

#### ARTICLE III.

A DECLARATION AS TO EXECUTIVE POWERS.

The executive powers shall be vested in an administrator of Samoa, who shall be appointed by the three signatory powers in common accord, or, failing their agreement, by the King of Sweden and Norway.

He shall receive an annual salary of (\$6,000) six thousand dollars in gold or its equivalent, to be paid out of the revenues of the Samoan Government. Any deficiency therein shall be made good by the three powers in equal shares.

The administrator shall execute all laws in force in the islands of Samoa. He shall have power to grant reprieves and pardons for offenses against the Government of Samoa. He shall have power, by and with the consent and advice of the executive council, to appoint all officers whose appointment is not herein otherwise provided for. He shall have the power to fill all vacancies in office temporarily, and until appointments to such offices shall have been regularly made, and to designate persons to act in place of officers temporarily absent from Samoa.

It shall be the duty of the administrator, by and with the consent of the executive council, to divide the islands of Samoa, outside of the municipal district of Apia, into a suitable number of districts, which may, from time to time, be increased or decreased in size and number as deemed advisable, and in each district to appoint a governor who shall be charged with the collection of all taxes and with the maintenance of peace and good order within the district. The governors shall hold their office for a term of three years. They may be reappointed at the expiration of the term, and they may at any time be removed by the administrator for misbehavior. They shall be appointed on the nomination of the natives of their districts, but should the natives fail to agree upon a nomination the administrator shall appoint such chief of the district as he thinks fit. The local government of such districts shall be left, so far as may be, to be administered by the natives themselves in accordance with the laws and customs of Samoa.

#### ARTICLE IV.

##### A DECLARATION AS TO LEGISLATIVE POWERS.

1. The legislative powers shall be vested in the administrator and legislative council. The council shall consist of three members, one of whom shall be appointed by the United States, one by the Empire of Germany, and one by the United Kingdom of Great Britain and Ireland.

The administrator and council shall constitute a legislative body, of which the administrator shall be the president, and he shall have a voice in considering and a vote in determining all questions that may come before it.

Three of the four members composing the legislative body shall constitute a quorum for the transaction of business:

*Provided, however,* That no law shall be enacted and that no rule or regulation having the force of law shall be made without the concurrence of at least three members in open session.

The legislative power of the administrator and council shall extend to all rightful subjects of legislation, and in particular they shall have power to levy and collect such taxes, duties, imposts, and excises as may be necessary for the public revenues, and for this purpose they shall have power to change and modify the taxes, duties, imposts, and excises provided for in this act.

They shall have power to establish post-offices, post-roads, and a uniform postal system. They shall have power to establish municipal and district government and to limit and define their powers.

But the three great powers reserve to themselves at all times the right and power to modify or annul any legislative act of the Samoan Government.

2. The members of the legislative council shall also constitute an executive council, which shall from time to time counsel and advise the administrator in his executive capacity as may be required.

The members of the legislative and executive councils shall also, when designated by the administrator, act in the capacity of assessor and collector of customs and revenues, treasurer, attorney-general, and such other executive officers of the government as may be provided for.

They may also, if required, act in the capacity of consuls or consular agents of their respective Governments.

3. There shall be a native assembly composed of the governors of the different districts of the islands. The members of the native assembly shall hold their office for three years, but the administrator shall have the power to dismiss any of them for misbehavior. The native assembly shall meet annually at Mulinuu at such times as may be designated by the administrator, but such session shall not continue for a longer time than thirty days in one year, except for reasons approved by the administrator. The native assembly shall be presided over by the chief justice, or some other white official designated by the administrator, but the president so designated



shall not have a vote and his functions shall be merely to control and direct the proceedings of the assembly with a view to the dispatch of business. The native assembly shall be empowered to deal with all questions concerning district government, including native courts, and with all matters which affect natives only. Its resolutions and recommendations shall be referred to the administrator and legislative council, who shall approve, disapprove, or return them with such modifications as they may deem proper: *Provided always*, That no resolution or other action of the native assembly shall have any binding force or effect until the same shall have been approved by the administrator of the legislative council.

#### ARTICLE V.

#### A DECLARATION RESPECTING THE ESTABLISHMENT OF A SUPREME COURT OF JUSTICE FOR SAMOA, AND DEFINING ITS JURISDICTION.

SECTION 1. A supreme court shall be established in Samoa to consist of one judge, who shall be styled "chief justice of Samoa," and who shall appoint a clerk and all necessary officers of the court; and record shall be kept of all orders and decisions made by the court, or by the chief justice in the discharge of any duties imposed on him under this act. The clerk and other officers shall be allowed reasonable fees, to be regulated by order of the court.

SEC. 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the chief justice shall be appointed by the three signatory powers in common accord; or, failing their agreement, he may be appointed by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honor, impartiality, and justice.

His decision upon questions within his jurisdiction shall be final. The three powers, however, reserve to themselves the right to modify or annul decisions of the supreme court involving any question of a political or administrative character or principle of international law. He shall receive an annual salary of five thousand dollars (\$5,000) in gold or its equivalent, to be paid out of the revenues of the Samoan Government. Any deficiency therein shall be made good by the three signatory powers in equal shares.

The powers of the chief justice, in case of a vacancy of that office from any cause, and during any temporary absence of the chief justice from the islands of Samoa, shall be exercised by such person as may be designated by the administrator.

SEC. 3. In case any of the four Governments shall at any time have cause of complaint against the chief justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and, if in the judgment of such authority there is sufficient cause for his removal, he shall be removed. If the majority of the three treaty powers so request, he shall be removed. In case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

SEC. 4. The chief justice is authorized at his own discretion, and upon the written request of either party litigant, to appoint assessors or jurors, not exceeding three in number, nor of the nationality of either party, to hear and determine any issue of fact arising in the case.

SEC. 5. In case any difference shall arise between either or any of the treaty powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the chief justice of Samoa; who shall make his decision thereon in writing.

SEC. 6. The chief justice may recommend to the government of Samoa the passage of any law which he may consider just and expedient for the prevention and punishment of crime, and for the promotion of good order in Samoa and the welfare of the same.

SEC. 7. The supreme court shall have original and final jurisdiction of:

- (1) All questions arising under the provisions of this amended general act.
- (2) All civil suits concerning real property situated in Samoa and all rights affecting the same.
- (3) All civil suits of any kind between natives and foreigners, or between foreigners irrespective of their nationality.
- (4) All crimes and offenses committed by natives against foreigners, by foreigners against natives, or by foreigners against each other irrespective of nationality, except violations of municipal ordinances and regulations of which the municipal magistrate is given jurisdiction.
- (5) Of all felonies committed by natives against each other.

SEC. 8. The supreme court shall have appellate jurisdiction over all municipal magistrates and municipal courts in civil cases where the amount of the judgment rendered exceeds \$10 and in criminal cases where the fine exceeds \$20, or the imprisonment (10) ten days.

SEC. 9. The practice and procedure of common law, equity, and admiralty, as administered in the courts of England, may be so far as applicable the practice and procedure of this court; but the court may modify such practice and procedure from time to time as shall be required by local circumstances. Until otherwise provided by law, the court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of Germany, as the chief justice shall decide most appropriate; or in the case of native Samoans and other natives of the South Sea Islands according to the laws and customs of Samoa.

SEC. 10. Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels, nor shall the court take any ex post facto or retroactive jurisdiction over crimes or offenses committed prior to the organization of the court. The supreme court shall have power to issue writs of injunction, attachment, mandamus, and other remedial writs known to the common law. The writ of habeas corpus shall not be suspended except in time of actual war.

SEC. 11. The legislative council shall have power to create and provide such other and inferior courts and judicial tribunals in Samoa as from time to time may be found necessary and proper: *Provided*, That the jurisdiction of the courts and judicial tribunals so created shall not extend to civil cases involving an amount or property exceeding in value \$50, nor to criminal cases where the penalty exceeds a fine of two hundred dollars (\$200) or imprisonment for a longer term than one hundred and eighty days.

SEC. 12. The chief justice shall hold terms of the supreme court in Apia and at such other places in the islands of Samoa as in his discretion may be necessary and proper.

#### ARTICLE VI.

A DECLARATION RESPECTING TITLES TO LAND IN SAMOA AND RESTRAINING THE DISPOSITION THEREOF BY NATIVES; AND PROVIDING FOR THE REGISTRATION OF VALID TITLES.

SECTION 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise, shall be prohibited, subject to the following exceptions:

(a) Town lots and lands within the limits of the municipal district as defined in this act may be sold or leased by the owner for a just consideration when approved in writing by the chief justice of Samoa.

(b) Agricultural lands in the islands may be leased for a just consideration and with carefully defined boundaries for a term not exceeding fifty (50) years when such lease is approved in writing by the chief executive authority of Samoa and by the chief justice; but care should be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SEC. 2. The court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners or natives.

SEC. 3. All lands acquired before the 28th day of August, 1879—being the date of the Anglo-Samoan treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith for a valuable consideration in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the court.

#### ARTICLE VII.

A DECLARATION RESPECTING THE MUNICIPAL DISTRICT OF APIA, PROVIDING A LOCAL ADMINISTRATION THEREFOR AND DEFINING THE JURISDICTION OF THE MUNICIPAL MAGISTRATE.

SECTION 1. The municipal district of Apia is defined as follows: Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of river Fuluasa, thence following the course of the river upward to a point at which the Alafuala road crosses said river, thence following the line of said road to the point where it

reaches the river Vaisinago, and thence in a straight line to the point of beginning at Vailoa, embracing also the waters of the harbor of Apia: *Provided*, That the administrator and council shall have power to interpret, limit, and define the boundary of the municipal district of Apia.

SEC. 2. Within the aforesaid district shall be established a municipal council consisting of six members and a mayor, who shall preside at all meetings of the council and who shall, in the case of an equal division, have a casting vote. The mayor shall be appointed by the municipal council with the approval of the administrator.

In case the municipal council shall be unable to come to an agreement they shall submit to the administrator the names of the candidates whom they recommend for the office of mayor, and the administrator shall choose the mayor from among them.

The mayor and the councilors shall be residents of the said district, and owners of real estate, or conductors of a profession or business in said district which is subject to a rate or tax not less in amount than \$5 per annum.

For the purpose of the election of members of the council the said district shall be divided into three electoral districts, from each of which an equal number of councilors shall be elected by the taxpayers thereof, qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election. It shall be the duty of the administrator to make the said division into electoral districts as soon as practicable.

Subsequent changes in the number of councilors or the number and location of electoral districts may be provided for by municipal ordinance, subject to reference to the administrator as hereinafter provided.

The mayor shall hold his office for one year and until his successor shall be elected and qualified.

The councilors shall hold their office for a term of two years and until their successors shall be elected and qualified.

In the absence of the mayor the council may elect a chairman pro tempore.

Consular officers shall not be eligible as councilors or mayor, nor shall councilors or mayor exercise any consular functions during their term of office.

Each member of the municipal council, including the mayor, shall, before entering upon his functions, make and subscribe before the chief justice an oath or affirmation that he will well and faithfully perform the duties of his office.

SEC. 3. The municipal council shall have jurisdiction over the municipal district of Apia so far as necessary to enforce therein the provisions of this act which are applicable to the said district, including the nomination of a municipal magistrate, who shall be appointed in the same manner as the mayor. The council shall also have the power to appoint all necessary subordinate officers of justice and of administration in the said district, and to provide for the security of person and property therein; and to assess such municipal rates and taxes as they may agree upon; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said district and not in conflict with this act, including sanitary and police regulations.

They shall establish pilot charges, port dues, quarantine, and other regulations of the port of Apia. They shall also fix the salary of the municipal magistrate, and establish the fees and charges allowed to other municipal officers of the district.

All ordinances, resolutions, and regulations shall be referred by the municipal council to the administrator, who shall express his consent or disapproval or suggest amendments: *Provided always*, That no ordinances, resolutions, and regulations passed by this council shall become law before receiving the approval of the administrator.

SEC. 4. The municipal magistrate shall have exclusive jurisdiction in the first instance over all persons, irrespective of nationality, in case of infraction of any laws, ordinances, or regulations passed by the municipal council, in accordance with the provisions of this act, and of all misdemeanors committed within the municipal district of Apia: *Provided*, That the penalty does not exceed a fine of \$200 or imprisonment for a longer term than one hundred and eighty days, with or without hard labor. The municipal magistrate shall also have jurisdiction within the municipality of Apia in all civil suits not affecting the right of real property between natives and foreigners, or between foreigners irrespective of nationality, where the value of the property or the amount involved does not exceed the sum of \$50.

SEC. 5. The mayor shall superintend the harbor and quarantine regulations, and shall be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia.

SEC. 6. The administrator and council shall fix an annual sum to be paid out of the revenues of the island to the municipal council for the expenses of the municipal government and the execution of public works.

## ARTICLE VIII.

## A DECLARATION RESPECTING TAXATION AND REVENUE IN SAMOA.

SEC. 1. Until otherwise provided by law the port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares, and merchandise landed on the islands shall be there entered for examination; but coal and naval stores which either Government has by treaty reserved the right to land at any harbor stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SEC. 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands the following duties, taxes, and charges may be levied and collected:

*A. Import duties.*

1. On ale and porter and beer .....	per dozen quarts..	\$0.50
2. On spirits .....	per gallon..	2.50
3. On wine, except sparkling .....	do.....	1.00
4. On sparkling wine .....	do.....	1.50
5. On tobacco .....	per pound..	.50
6. On cigars .....	do.....	1.00
7. On sporting arms.....	each.....	4.00
8. On gunpowder.....	per pound..	.25
9. Statistical duty on all merchandise and goods imported, except as afore- said .....	ad valorem..	2 p. c.

*B. Export duties.*

On copra.....	ad valorem..	2½ p. c.
On coffee .....	do.....	2 p. c.
On cotton .....	do.....	1½ p. c.

*C. Taxes to be annually levied.*

1. Capitation tax on Samoans and other Pacific Islanders over the age of 18 and under the age of 45 years, not included under No. 2.... per head... \$2.00
2. Capitation tax on colored plantation laborers, other than Samoans, per head..... 2.00
3. On boats, trading and others (excluding native canoes and native boats carrying only the owner's property)..... each... 4.00
4. On firearms..... do..... 2.00
5. On dwelling houses (not including the dwelling houses of Samoan natives) and on land and houses used for commercial purposes ...ad valorem... 1 p. c.
6. Special taxes on traders as follows:

## Class I.

On stores of which the monthly sales are \$2,000 or more .....each... \$100.00

## Class II.

Below \$2,000 and not less than \$1,000.....each... \$48.00

## Class III.

Below \$1,000 and not less than \$500 .....each... \$36.00

## Class IV.

Below \$500 and not less than \$250.....each... \$24.00

## Class V.

Below \$250 .....each... \$12.00

*D. Occasional taxes.*

1. On trading vessels not exceeding 100 tons burden, calling at Apia, each call.....	\$10.00
2. Upon deeds of real estate, to be paid before registration thereof can be made, and, without payment of which title shall not be held valid, upon the value of the consideration paid.....	1 p. c.
3. Upon other written transfers of property, upon the selling price.....	1 p. c.
Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the proper tax collector.	
4. Unlicensed butchers in Apia shall pay upon their sales.....	1 p. c.

*E. License taxes.*

No person shall engage as proprietor or manager in any of the following professions or occupations except after having obtained a license therefor, and for such license the following tax shall be paid in advance:

Tavern keeper.....	per month..	\$10.00
Attorney, barrister, or solicitor.....	per annum..	60.00
Doctor of medicine or dentistry.....	do.....	30.00
Auctioneer or commission agent.....	do.....	40.00
Baker.....	do.....	12.00
Banks or companies for banking.....	do.....	60.00
Barber.....	do.....	6.00
Blacksmith.....	do.....	5.00
Boat builder.....	do.....	6.00
Butcher.....	do.....	12.00
Cargo boat or lighter.....	do.....	6.00
Carpenter.....	do.....	6.00
Photographer or artist.....	do.....	12.00
Engineer.....	do.....	12.00
Engineer assistants.....	do.....	6.00
Engineer apprentices.....	do.....	3.00
Hawker.....	do.....	1.00
Pilot.....	do.....	24.00
Printing press.....	do.....	12.00
Sailmaker.....	do.....	6.00
Shipbuilder.....	do.....	6.00
Shoemaker.....	do.....	6.00
Land surveyor.....	do.....	6.00
Tailor.....	do.....	6.00
Waterman.....	do.....	6.00
Salesmen, bookkeepers, clerks, paid less than \$75 a month.....	do.....	3.00
Salesmen, bookkeepers, clerks, when paid \$75 a month and over.....	do.....	6.00
White laborers and domestics, per head.....	do.....	5.00
Factory hands and independent workmen.....	do.....	5.00

SEC. 3. It is understood that "dollars and cents," terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies.

## ARTICLE IX.

## A DECLARATION RESPECTING ARMS AND AMMUNITION AND INTOXICATING LIQUORS, RESTRAINING THEIR SALE AND USE.

SEC. 1. The importation into the islands of Samoa of arms and ammunition by the natives of Samoa or by citizens and subjects of any foreign country is prohibited, except in the following cases:

(a) Guns and ammunition for sporting purposes for which written license shall have been previously obtained from the administrator.

(b) Small arms and ammunition carried by travelers as personal appanage.

The supply of arms and ammunition by any foreigner to any native Samoan subject or other Pacific islander resident in Samoa is prohibited.

The penalty for so supplying arms shall be a fine not exceeding (\$2,500) two thousand five hundred dollars, or a term of imprisonment not exceeding two years or both, in the discretion of the court, and the arms shall be confiscated. Half the fine shall go to the informer.

Any native found in the possession of arms or ammunition other than such as are used for sporting purposes shall be liable to a fine not exceeding (\$200) two hundred dollars, and a term of imprisonment not exceeding six months or both, in the discretion of the court, and the arms shall be confiscated. Half the fine shall go to the informer.

The Samoan government retains the right to import free of duty suitable arms and ammunition to protect itself and maintain order.

All arms without exception coming into Samoa shall be entered at the customs and marked there with a stamp, and the possession by any Samoan or foreigner of any arms not so stamped shall be prima facie evidence that such arms were imported in violation of law.

The three Governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of arms in Samoa.

SEC. 2. No spirituous, vinous, or fermented liquors, or intoxicating drinks whatever, shall be sold, given, or offered to any Samoan or South Sea Islander resident in Samoa to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this section shall be established by the administrator and council.

SEC. 3. *General customs regulations.*—It is hereby provided that no person or persons in Samoa shall enjoy any immunity from a strict examination by the customs of all articles imported. All goods shall be landed at the receiving sheds of the customs. The administrator and council are authorized to enact laws and ordinances providing for custom-house regulations, with suitable penalties for breach of the same.

#### ARTICLE X.

The provisions of this act shall continue in force until changed by consent of the three powers. Upon the request of either power, after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this amended general act. In the meantime, any special amendment may be adopted by the consent of the three powers with the adherence of Samoa: *Provided, however,* That no amendment of any section or article of this amended general act shall in any way affect private rights acquired under such section or article prior to such amendment.

In evidence of our approval and ratification of the foregoing amended general act pertaining to the government of Samoa, we, the high chiefs and chiefs constituting the district governments of the islands of Samoa, have hereunto affixed our hands and seals at Apia, on the island of Upolu, this 17th day of July, A. D. 1899.

MALIETOA-TANUMAFILI. [SEAL.]  
TUPUA TAMASESE. [SEAL.]

ALLEN WILLIAMS, *Interpreter.*

17TH JULY, 1899.

We hereby certify that we witnessed the signatures of Malietoa Tanumafili and Tupua Tamasese, the within document having been explained, read, and interpreted to them and they appearing to understand the meaning of the same.

HAMILTON HUNTER,  
*Acting British Consul.*

LESLIE C. STUART,  
*Captain R. H.*

W. JOHNSTON, Jr.,  
*British Consular Clerk.*

In evidence of our approval and ratification of the foregoing amended general act pertaining to the government of Samoa, we, the high chiefs and chiefs constituting the district governments of the islands of Samoa, have thereunto affixed our hands and seals at Apia, on the island of Upolu, this 15th day of July, A. D. 1899.

[13 signatures.]

I hereby certify that the above and foregoing signatures of the thirteen Mataafa chiefs were made and affixed in my presence and in the presence of the high commissioners at Apia on the 15th day of July, 1899.

EDWIN MORGAN,  
*Secretary to the Commission.*

In evidence of our approval and ratification of the foregoing amended general act pertaining to the government of Samoa, we, the high chiefs and chiefs constituting

the district governments of the islands of Samoa, have thereunto affixed our hands and seals at Apia, on the island of Upolu, this 15th day of July, A. D. 1899.

[13 signatures.]

I hereby certify that the above and foregoing signatures of the thirteen Tanu chiefs were made out and affixed in my presence and in the presence of the high commission at Apia on the 15th day of July, 1899.

EDWIN MORGAN,  
Secretary to the Commission.

*Mr. Tripp to Mr. Hay.*

FINAL REPORT—AFFAIRS IN SAMOA.

AUGUST 7, 1899.

SIR: In addition to the joint report of the commission made to the three powers, I have deemed it my duty under your instructions to state more elaborately and somewhat more in detail the reasons which have actuated and controlled our action in the determination of the various matters submitted to our consideration.

We were charged with two important and independent duties. First, to restore tranquillity and order and undertake a provisional government of the islands; second, to consider the provisions which might be necessary for the future government of the islands or for the modification of the final act of Berlin and report our conclusions to the three Governments.

In my dispatches already sent you, as well as in the joint report of the commission, the steps taken which happily resulted in the restoration of tranquillity and order have been detailed somewhat at length, and I shall content myself in my final report with referring only in a general way to the work of disarmament and consequent restoration of peace, shall somewhat in detail speak of the causes that led to the unfortunate condition of affairs existing on our arrival, and give some of the reasons for the proposed changes in the final act of Berlin, which it is hoped may tend to prevent the recurrence of such condition of affairs in the future.

We arrived in Apia on the 13th of May, 1899, making the seventh of the fleet of war vessels of the three great powers then anchored in that quiet little harbor—three English, three American, and one German, the *Tauranga*, the *Porpoise*, the *Torch*, the *Philadelphia*, the *Brutus*, the *Falke*, and the *Badger*, but not the sail or smoke of a single vessel of commerce was to be seen there or about the coasts of these beautiful islands. On land patrolling the streets and at every crossing were soldiers, white and native, demanding the password of resident and stranger. A thousand natives in native uniform, but armed with British rifles and commanded by British officers, paraded past us in response to the salutes from the vessels of war, while as many more natives armed with every species of warlike implement, in command of native officers, came from their camps to witness our arrival. At a distance from the town of perhaps three miles and encircling it on all sides were the native troops of Mataafa, estimated at about 3,000 men armed with rifles, head knives, spears, and such weapons of war as the natives could command, resting upon their arms behind their lines of improvised fortifications under the terms of the armistice which had been proclaimed by the vessels of war pending

the arrival of the commission. But a few days prior the English and American ships had shelled the town and the people had left the rear and exposed portions and were huddled together in the houses along the beach and out of the way of and protected by the guns of the ships which had been directed against the forts and lines of Mataafa surrounding the place. Excitement and alarm prevailed everywhere and this condition of nervous excitement had reached its height when the commission arrived.

The commission was met by no warm greeting from natives, whites, or the officers of the men-of-war. The guns thundered their salutes with cold formality, but there followed a frigidity of greeting which too plainly betrayed a want of confidence in the purpose or success of the mission on which we had come. The commanders of the war vessels believed that, but for the enforced armistice under orders from the great powers, the troops of Malietoa Tanu, under British officers and assisted by British and American marines, would have easily conquered the force of Mataafa, ended the contest, and established Tanu firmly upon his throne. The white people whose homes had been pillaged and who had sought refuge in Apia, under the guns of the men-of-war, despondingly awaited events which might again bring peace, and the inhabitants of the unhappy town, whose houses had been unluckily struck by the shells of a friendly fleet, and who sought shelter upon the shore, were about equally divided in their words of censure for the hostile forces of the natives and the vessels of their own fleet. They too awaited our arrival with no assured confidence of immediate relief or of permanent peace. The commission were looked upon as strangers without experience, unacquainted with native manners and customs, and lacking in that ability and education which could restore tranquillity and order, or provide for their maintenance in the future. Outside of the noisy salutes fired by the men-of-war, the reception of the commission on its arrival in Apia was without demonstration, icy and cold. They had not come, however, for pleasure nor as guests, but to learn and to act, and they set themselves immediately to their task. As I have already informed you, they opened rooms on shore, where for many days they consulted with officers of the navy, officials of the powers, private citizens, business men, missionaries, and everyone who could inform them of the situation they had come to meet. From every quarter they received discouragement as to any effort at disarming the native. They then summoned the chiefs themselves of the hostile parties, and finally obtained from them the promise to surrender their arms, which was on the 31st of May, 1899, carried out, and up to this time we have taken up from the natives and have in our possession more than 3,400 native guns, in addition to the British rifles, about 700 in number, returned to the British men-of-war. This was the beginning of peace. There is nothing the Samoan loves more than his gun; there is nothing he will not part with in its purchase; no sacrifice he will not make for its retention. It occupies the most prominent place in his home, and it is his constant companion upon his journeys abroad, and when he surrendered it to the commission, the white man felt and knew that peace was assured, and a feeling of confidence was at once inspired which has never abated, and which had aided the commission in bringing its work to a rapid and successful issue. The naval commanders yielded ready obedience to every request. The whites on shore for the time



forgot their national quarrels and their differences of the past, and the natives of both factions vied with each other in anticipation of the commission's requests, and in the performance of any services desired.

In the prompt and effective disarmament of the two hostile forces lay whatever of success has attended the commission's work. It was an effective and nearly a total disarmament of both factions. Very few guns remain in the hands of the natives, and these are held under such severe penalties that it will perhaps never be known how many were not surrendered. The commission brought two controlling influences to bear upon the native in effecting this result. Mataafa had returned as an exile from Jaluit under strict promises of obedience to the laws and government of Samoa, which, if the decision of the chief justice were upheld, had been broken. This was diplomatically placed before him in our oral interviews, and while no promise of immunity was made him, he was given to understand that the action of the three powers toward him would be made largely to depend upon his future conduct and attitude toward the commission and the government they might establish. Mataafa is undoubtedly the most sagacious and influential of all the native chiefs. He grasped the situation at once, proclaimed himself friendly to peace and desirous of doing everything deemed requisite by the commission to that end, and has kept his promises, it is believed, to the letter. Second, we found that all the arms were private property, each native being the owner of his own gun, and to assure success in what we deemed a vital point, the commission promised after the restoration of peace to return the guns or pay to the owners a fair compensation therefor. This was an argument *ad hominem*; it was a stronger argument even than the interested patriotism of Mataafa, but coupled with it became irresistible to the native mind, and almost to a man the Mataafa party surrendered its guns, delivering over 1,800 on the 31st of May and in all nearly 2,100 to the commission. It was also agreed that the disarmament should be general; that Tanu men as well as Mataafa should surrender their arms, and this was generally done. These guns, as I have already informed you, were taken by the *Badger* to San Francisco, to be there held until the three powers shall agree upon their disposition. The commission requested the English and German vessels remaining in the harbor of Apia to take them upon our departure, but these vessels had no room on board, and it was not deemed prudent to store these guns on shore, so the only thing left was to bring them with us. \* \* \* a valuation made by officers detailed by the captains of English, German, and American men-of-war, which I believe places an average value on the entire lot of about \$12 each, which is, I am inclined to think, a very large valuation; but it was made as a mere precaution, and not one by which the powers would be by any means bound.

The disarmament was accomplished without any promises made or inducements offered as to the future government of Samoa and before the commission had itself arrived at any conclusion or decision as to who was king. As soon as the disarmament had been concluded, we set to work to determine that important question. Fortunately, after much discussion, citation of such precedents as were at hand, and the application of legal principles which obtain in the jurisprudence of the courts, we unanimously reached the conclusion that under the provisions of the Berlin treaty the decision of the chief justice was valid and binding. It is true that the decision seems to base the judgment

of the court upon the ineligibility of Mataafa under the protocols of the Berlin treaty, but the judgment itself, as found in the docket of the court, \* \* \* bases the decision both on the ineligibility of Mataafa and upon the evidence presented to and considered by the court. Such a judgment under the express provisions of the treaty must be held to be valid and binding. When the record shows that evidence to sustain the issues was presented to the court and that such issues were so tried and determined upon the evidence adduced, the judgment is necessarily conclusive though the reasoning of the court by which it reaches such conclusion be ever so fallacious. This proposition is so well sustained as elementary law that it needs only to be stated to be admitted, and if any doubt existed whether the determination of the election of a king is so far a judicial one as to come within the elementary principles, the doubt is removed by the very terms of the act itself which provides that "the signatory governments will accept and abide by such decision." (Sec. 6, art. 3.)

Having reached this conclusion it was unnecessary to attempt to jointly review the causes that led to the necessity for such decision. By the decision itself Tanu was king, and the correctness or incorrectness, the propriety or impropriety, of the conduct of those who had favored or opposed his election became immaterial in accomplishing the purposes of our mission, viz, the restoration of peace and proposed changes in the existing government of Samoa. Our joint action has therefore been confined to these two great objects, leaving each individual member of the commission at liberty in his separate report to make such reference to the conduct of individuals and citizens resident in Samoa as he might deem proper. I have not, however, under any instructions deemed it necessary for me to go further into the inquiry as to the cause that led to hostilities than to consider such facts as were developed in the legitimate determination of the questions submitted for our decision. It is undoubtedly true that the white people in Apia were in sympathy with one or the other of the rival candidates for king. It is also undoubtedly true that the German residents generally were in sympathy with Mataafa and the English and American residents with Tanu; but outside of some idle rumors there was no evidence adduced before the commission that any citizen of any nationality openly took any part in the proceedings that led to open hostilities or advised measures that led thereto. On the contrary, both the Germans—Marquardt and Hufnagel—who had been arrested and kept in confinement for several weeks prior to our arrival for having advised and aided Mataafa in his rebellion against the Government, were, upon a hearing by the commission, immediately discharged, there being no competent evidence against them. Prior to the decision of the chief justice it is difficult to see why the citizens of one nationality or another might not feel or exhibit a sympathy with the one or the other of the contending parties. Mataafa, though a returned exile and under strict promises to remain at Mulinuu and to maintain obedience to the government, had before the selection of candidates by the chief justice in a private letter to H. J. Moore, been declared eligible for the office of king, and while this unofficial letter could in no way affect the subsequent decision, yet it being made public did give to Mataafa a plausible color of right to become such candidate without apparent breach of the promises he had made. I do not therefore see how white men or the followers of Mataafa are open to censure on

account of sympathy or support given to him prior to the decision declaring Tanu king. It may have been bad taste for white men to have espoused the cause of either candidate for native king, but no rule of law or ethics made it wrong.

It was undoubtedly a mistake that Mataafa was permitted by the powers to return to Samoa at the critical time when a king was to be selected. It should have been foreseen that sympathy for the old man, whose exile had come to be a martyrdom in the minds of his relatives and friends, coupled with the magnetic powers and abilities of the man himself, could not fail to make him a powerful if not a successful candidate for the place he had once filled. But the powers permitted him to return; the chief justice declared him a proper person to be made king; his admirers espoused his election and declared him king; and undoubtedly by our theory of election where majorities control he was the choice of an overwhelming majority of the Samoan people, but in Samoa the select few and not the people determine the election of chiefs and kings. I have given the matter some thought, and have several times heard the theory explained by which the selection of king is finally made "according to the laws and customs of Samoa"—*Faa Samoa*—but I have only so far grasped the methods employed as to enable me to definitely conclude that according to such laws and customs it is possible to elect two kings at the same time, and that the one declared elected may or may not be the choice of the majority of the people themselves. Whether, then, Chief Justice Chambers fairly and honestly found upon the evidence before him that Tanu was elected king in accordance "with the laws and customs of Samoa," as his docket says he did, I do not think any lawyer of the great powers will ever have the patience or ability to determine, and he will upon a partial investigation of the methods pursued in determining such election feel inclined rather to excuse his honor for seeking to base his decision upon the ineligibility of the opposing candidate than to require him to set forth his reasons for a decision based upon the facts—"Faa Samoa." In my judgment, then, Mataafa and his supporters are to be blamed, not for what occurred before but after the rendition of the decision. The decision declaring Tanu to be king was the law of Samoa, and all who refused obedience to it violated not the decision alone but the treaty upon which it was based. I need not particularize.

The consuls and all officials of Samoa were bound to recognize Tanu as king. Until annulled by the great powers no consul or official of the great powers was at liberty to deny its binding force. Every act done or word of encouragement given by treaty officials toward approval of resistance to the decision of the court and their subsequent refusal to recognize Tanu as king must be regarded as a breach of treaty rights and a discourtesy toward the other allied powers. It is generally believed by those best informed in Samoan affairs that had the three powers been agreed as to the validity and binding force of the decision, and had the three consuls at once so proclaimed to the native people, the war might have been avoided and peace for the time at least maintained. Whether this be true or not I am quite convinced that the natives were informed that the powers were not agreed and that this fact encouraged them to active and prompt resistance. It is not improbable, however, that war would have come at last, for, according to "*Faa Samoa*," he only can be king who can maintain the

title by force of arms. The contest between the forces of Mataafa and Tanu in the first instance was a brief one. In less than twenty-four hours the entire force of Tanu was made prisoners and disarmed or driven to its boats and on board the men-of-war. The victory was decisive and almost bloodless. This followed so suddenly and so immediately the decision that it seemed rather its resultant than a revolution against it. Apia and the people yielded to the inevitable, and the consuls of the powers subscribed allegiance to the provisional government whose creation and existence rests rather in rumor than by record and facts. It was, however, a submission to superior force, and the Mataafa faction, so far as the natives were concerned, was in control. The white officials will never be able to agree as to what the provisional government was or what share, if any, the different nations took therein. Whatever trace of it existed at the time the British and American forces ceased fire upon the town, had disappeared when the commissioners themselves arrived. Mataafa and his troops were many miles away; Tanu, as king, was holding his court at Mulinuu, and where military law was not supreme, the old officials of the Government were exercising the functions of their offices. The provisional government was at an end. If it had any existence in fact it lives only in the memory of the past, so that we were by the shells of British and American guns relieved from some difficult questions of international law that might otherwise have arisen had we found it *de facto* the government of Samoa.

I do not deem it part of my duty to go into the question of the origin and termination of this "provisional government" at length. It was one of those evanescent, kaleidoscopic transitions of the kind of government of which the history of Samoa has furnished many unique examples in the past. It must be admitted that under the view the commission has taken the provisional government was the result of a victorious revolt against the lawful government, its leaders were revolutionists, its officers in the eye of the law were rebels, and the consuls who assumed to act for their Governments in yielding obedience thereto, were acting without the pale of their authority, and until ratified by their Governments, their acts were null and void. I shall not argue the question whether a majority or all the consuls acting together could authorize the naval authorities to shell the camps of Mataafa and break up the provisional government itself. I have always maintained the opinion that whenever the consuls under the Berlin treaty were required to act that a unanimity was not required except in the cases therein enumerated, "The mention of the one to the exclusion of the other," and when the framers of the Berlin treaty chose to enumerate certain cases in which unanimity of action was required, they declared by implication that in all other cases a majority of the board was authorized to act. I do not think, however, that the admiral and other naval commanders in the harbor of Apia were at all subject to the unanimous or majority control of the consuls, except in so far as they may have been specially instructed by their governments. The naval commanders' general instructions would have been sufficient to authorize them to fire upon armed rebels in revolt against their lawful government. It would seem to me that Admiral Kautz and the English commanders, acting under their general instructions, were authorized to put down an armed rebellion against the lawful government of the three powers and to sustain by force of arms

the decision of its courts, and if their private instructions put them under control of the consuls as to how and when display of force was to be employed, I am still of the opinion that such instructions were not violated by their obeying the orders of a majority of them. I expressly disclaim passing upon these questions other than in a general way, and I must claim that what is here said shall not be regarded as an opinion or report upon these questions made after an investigation of the facts. I desire them to be considered merely as a report upon questions arising incidental to the matters left to our jurisdiction and control.

After the commission had reached the conclusion that Tanu was king it set about to place the wheels of a provisional government in motion. Complaints were frequent and urgent from people of all classes requesting to be relieved from military rule, that sentries be removed, and that civil government be again restored. The city government had lapsed. The councilmen in one of the wards had failed to qualify and in another were illegally elected, and as no quorum of the former government could be obtained the commission itself had to appoint registers and call an election to fill such vacancies. They then installed Dr. Solf as president of the council, withdrew the sentries, and placed the town under a city government and civil law. In the meantime we had canvassed the question of a provisional and permanent government for the islands. The history of Samoa showed that the title of king was of very recent origin and extended no farther back than to the grandfather of Tanumafili, and that his father was really the first to be crowned and anointed king. The title of king is said to have originated with the missionaries, who conceived the idea to unite the islands under one ruler and thereby to make a stronger and better government. On the contrary, it became weaker, there being no hereditary king. The most powerful chiefs of the most aristocratic families and tribes claimed the right of succession and exercised the right of rebellion during every reign. No king was able to maintain his authority over all the districts at the same time. Some of the more powerful chiefs were continually in rebellion. The father of Tanu was twice deposed and three kings assumed the title intermediate his reign as king—Malietao Talavou, Tamasese, and Mataafa—and the process of the king instead of commanding respect was mocked at and jeered, and could not be enforced in many of the larger districts of the so-called kingdom of Samoa during his entire reign. This was not on some occasion of revolt, but usual and continuous. I am informed by Chief Justice Chambers that during his entire stay in Samoa the writs of his court, running in the name of Malietao Laupepa as king, could not be enforced in several large districts of Samoa, and this in times of apparent peace. The title of king was an empty honor; the real power was in the district chief, and the native government existed there. Upon consulting with those best acquainted with Samoan affairs we did not find a man not influenced by selfish interests who was not pronounced in favor of abolishing the office of king. It was not only an empty honor but a bauble to be contended for by powerful chiefs, a sort of Samoan prize not to be retained by the victor but to be submitted to new contests and won afresh upon the field of honor. Instead of an element of strength it was an element of weakness and a cause of war and insurrection, and upon consulting with the older and wiser chiefs we were surprised to find that they, too, believed it

better that the office should be abolished, that the districts should govern themselves, and the white man should make the laws for Samoa. We became unanimous that the office of king should be abolished, so far as our recommendation could effect such result, and so informed Tanu, the king. He advised with his friends, and subsequently informed the commission that he was yet a boy at school and desired to complete the course of study he had begun, and in oral conversation he further explained that, should the great powers agree with the commission to abolish the office of king in the formation of a permanent government, his temporary holding of the position became a worthless title, and did the powers permit the title in the future to be retained it would be one which could not peaceably be held. It came to him not by descent but by a decision, which many of the great chiefs declared in violation of Samoan law and customs. He could not hope to hold it except by war, and his life would be spent like that of his father in anxiety upon the throne and in the loneliness of exile, and he preferred the hereditary title of district chief to the unmeaning title of Samoan king. \* \* \*

Upon the acceptance of the resignation of Tanu the executive power of the provisional government was placed in the hands of the three consuls with Dr. Solf as adviser, and a proclamation issued to that effect. The provisional government being now in force, the time of the commission was directed to the question of a permanent government and the changes to be recommended in the final act of Berlin. The act itself was the unique work of skillful men, and had it not fallen into the hands of strict constructionists would undoubtedly have served well the purpose of its creation. The same forces which robbed it of the elasticity of construction and expansion of provision still existed in Samoa and might wreck any form of tripartite government that could be conceived. If such a form of government be possible, and I use the word with full understanding of the doubt it implies, it can be made endurable and permanent only by being made applicable to all classes of people through the same agencies of administration. The foreign population to be governed should as far as possible be made homogeneous, and one set of officials should administer the same law in all Samoa. The question of nationality must be lost sight of in the administration of government and the government should be made autonomous as its preamble declares by an administration which treats citizens of every nationality alike. To aid in carrying out this principle of government we have recommended the abolition of that judicial extraterritoriality heretofore existing in the consuls. The exercise of this right has become a weapon of hostility rather than a shield of defense. The consulate had become an asylum from crime rather than a temple of justice and the criminal had come to regard his consul as one who would protect and shield him from the courts rather than as a judge who would punish him for his crime. Not only had the consulate thus become a refuge for criminals, but the courts were continually harassed with questions of jurisdiction which were not always limited to the courts of Samoa, for not infrequently they found their way to the powers themselves and became unpleasant subjects of international complication. Scarcely a case arose in the courts that this vexed question did not present itself in some form and the assertion of consular jurisdiction took on at times such an air of superior power as to create a counter resistance of the court in order to main-

tain a dignity of demeanor in contrast with the humiliation sought to be imposed. These were some of the evils of the consular extraterritorial jurisdiction. On the other hand, the good effects expected from its exercise did not result. Such judicial powers are never exercised by consuls except in those countries like Turkey, China, etc., where by reason of all religious prejudice or incapacity of native courts foreigners can not, with safety to liberty and property, submit to their jurisdiction. Neither of the reasons obtain in Samoa. Nearly all the inhabitants are Christians, as will be seen by reports of missionaries \* \* \* which show that of the 35,000 estimated population of these islands the Protestants claim about 27,000 and the Roman Catholics 7,000. The courts, too, having foreign jurisdiction are not native, but white. The chief justice is selected by the powers and has jurisdiction, not only in cases where foreigners are parties, but in all cases where foreigner and native are parties.

It would seem that no good reason could exist why a court that has jurisdiction to try cases between Englishmen and Americans might not be qualified to try cases between Americans themselves, nor why it should not be authorized to try and punish an American as well as a Norwegian or a person of another nationality in a country declared to be autonomous and independent, and where all men are supposed to be free and equal. It developed also upon inquiry that this consular jurisdiction was unpopular with the people themselves. The consuls even condemned it and we found but one man, an attorney who had shown some skill in entangling the courts upon this vexed question, who attempted to defend such jurisdiction. No reason therefore seeming to exist for further insistence upon the rule, and its exercise having been found to be prolific of the evils sought to be controlled, we have recommended the abolition of this extraterritorial jurisdiction heretofore exercised by the consuls and have conferred such jurisdiction upon the chief justice, and have at the same time, to relieve his court and to expedite the hearing of petty cases, enlarged the jurisdiction of the municipal magistrate so as to allow him to try civil cases involving an amount not exceeding \$50 and misdemeanors where the penalty does not exceed a fine of \$200 or one hundred and eighty days imprisonment, with right of limited appeal to the supreme court. We have also made a few specifications of the powers of the courts to issue certain writs, such as mandamus, injunction, etc., which would probably exist without enumeration, and have retained the former provision of the Berlin treaty making the decisions of the chief justice final, adding, however, a clause which reserves to the powers the right to annul all decisions involving executive and administrative rights or principles of international law. This clause relieves the powers from the annoyance of appeals by litigants which might be frequent and annoying, and at the same time saves to them the right of annulment in all cases where the decision is not strictly judicial. We have also extended the jurisdiction of the supreme court to felonies committed by natives against each other, upon the advice of missionaries and those better versed in Samoan laws and usages. It is believed that such jurisdiction, though exercised only in extreme cases, will have a beneficial effect in restraining the commission of crime and advancing the condition of morality among the natives themselves. Much complaint existed also among American and English settlers especially, that the Berlin act contained no provision for a trial by jury, which citizens of

those nations regard as one of their dearest rights. We found, however, that it would be quite impracticable to provide for a jury of twelve men, where perhaps not one hundred men qualified for jury duty could be found on the entire islands, and we therefore have compromised the matter by providing for a jury of three to be allowed in the discretion of the court in civil cases and as an absolute right in criminal cases. This in lieu of the provision for assessors, which we were informed was a dead letter, it never having been attempted to be used but once since the organization of the court and which then proved a failure. With these exceptions the powers of the supreme court have not been changed. This court has proved to be the strongest and best part of the mechanism of the Berlin treaty and we have felt it proper therefore to strengthen rather than to weaken its powers.

In place of the king and his advisers we have provided an executive officer whom we have designated as an administrator. To the administrator, who it is presumed will be an upright and experienced man of affairs, we have given real powers of administration. He will be the center and focus of the Samoan government, a real executive; and in reply to any objection which may be urged that we have established a protectorate instead of a Samoan government, we have, at the request of the natives themselves, taken away the prop from the king—the white adviser, who was expected and intended to be the actual king—and given them a real executive in his place—replaced the shadow with the object itself.

It can with no more propriety be urged that an assault has been made upon the independence of Samoa by furnishing it an able executive than where the native court was replaced by the supreme court, and what has proved such a necessity and bulwark of strength in the judicial department, it is believed will be developed in the executive by the substitution of the administrator for the king and his white adviser, and the one strikes no more at the independence of Samoa or assumes a greater protectorate power than the other. The question becomes one of good government and not a mere dream of the sentimentalist, the humanitarian, or the charlatan. If a government is to be maintained in these islands it must be a strong, simple, and economical one. It must be so strong as to be respected and feared, so simple as to be understood by the native and white, and so economical as to impose neither too heavy a burden upon the people nor the powers that must be responsible for its failure or success. Along these lines, without sentiment or imagery of thought, we have centered in the administrator and his council such power and simplicity of action as will give in our judgment to it the strength and elasticity which, under the strict construction of the Berlin treaty, robbed the government of the powers intended to be conferred. Small powers of legislation are given to the council, well guarded in their enumeration and in the reservation which gives to the powers entire right to modify or annul. In this way the treaty, instead of being a codification of law, assumes more the character of a written constitution which both grants and limits the powers of the executive, legislative, and judicial departments of the government, and provides thereby an elasticity of action without interfering with its strength or economy. The white man has provided a white man's government over the whites, and so far



over the natives as to insure peace and to protect the business relations existing between native and white upon these islands. The natives in their intercourse with each other are governed by the laws and customs of Samoa as administered by the district chiefs. We have preserved all there has ever been of native government and given to the central government simplicity and strength which it is believed will insure stability and permanence of character. The administrator and chief justice are given such salaries as is believed will command respectability, and the office of councilor is left to be filled by each nation at such salary as may be deemed adequate and just. Provision is also made for their acting in the capacity of collectors of customs, treasurer, attorney-general, and such other executive offices as may be found expedient and proper, it being clearly shown that their employment in the role of councilors will not be so onerous but that a large share of the executive work of the islands can be performed by them; and if desired, no objection is seen to their acting in the additional capacities of consuls or consular agents of the different powers, and in this way the salaries now paid for king, collector of customs, etc., would be saved and a fair salary could be afforded by the powers to command for these places such ability as their importance demands.

As to the native government, we have given it especial study. We visited every island except Manua, the extreme eastern islands of the group, which have but few inhabitants and are almost inaccessible except during the smoothest sea. We held meetings in every district, at which nearly every chief and native was present. We discussed with them their theories of government. We drank kava and ate with them. We listened to their speeches. We talked with their chiefs and explained our own theories of the central and native governments, and we found them not only quite unanimous, but at the last enthusiastic in favor of the central government as contained in the amendments proposed. The form of district government is quite their own, and was agreed upon after our tour of the islands, and is a consensus of the views of the chiefs and those most familiar with native laws and customs. Our aim has been to leave to the native the largest freedom and liberty within the districts and to teach himself-government through the native assembly, which meets each year at Apia, whose teachings will disseminate and make its impressions felt in the district governments until in time the native will be able to take his part in the government of the islands with an intelligence equal if not superior to that of the white man now there. But at present he is unfitted for extended self-government, and no one appreciates this fact better than himself. He is anxious to learn. He wants a white man's government. Thanks to the missionaries the great bulk of the natives and nearly every chief can read and write and are adopting the habits of civilization with great alacrity. They are entirely satisfied with the form of government we have proposed, and while we have not permitted our draft to be published or read until it shall have been presented to our Governments, we have taken occasion at these private meetings with chiefs, at which no white man or reporter was permitted to be present, to explain its principles at length, and on the 14th of July, just before our departure, we called the chiefs together at Apia from all the islands, about four hundred and fifty being present—every high chief, in fact, except Mataafa and Tanu, the former being kept away by sickness and the latter because it was not deemed proper for him to be present dur-

ing Mataafa's absence. To these chiefs we fully explained the proposed government, and were surprised to find that the Mataafa chiefs had anticipated us by themselves proposing in brief a form of government much our own, which they had prepared and which was read by one of the Mataafa chiefs. \* \* \* At the close of the meeting so harmonious were the views of all the chiefs, both of the Mataafa and Tanu factions, that it was agreed that 13 chiefs from either side should be selected to sign the proposed form of government, to show to the powers that it met with their entire approval. Accordingly the 26 chiefs, 13 of the Mataafa and 13 of the Tanu party, came on board the *Badger* on the morning of July 15, 1899, and signed the proposed plan of government, and their original signatures will be found appended to the draft of government forming a part of our joint report which is herewith submitted.

In the form of government presented we have endeavored as far as possible to preserve the symmetry and theory of the Berlin treaty. The provisions as to reservation of lands to the native people, the principle of taxation, the restriction as to introduction of firearms and intoxicating liquors, have all been preserved and in some respects emphasized. The courts, as I have already stated, are retained and their jurisdiction enlarged, and the executive power has been changed only by abolishing the puppet king and creating out of his white adviser a real executive, as the adviser was expected to be. In short, the only change in principle has been to take away the consular judicial powers and confer them upon the chief justice, and to give elasticity to the act by conferring such legislative powers as would seem to be impossible to be exercised by the powers themselves, or which results could not be embraced in an act so brief as the treaty itself. We have endeavored in the short time at our command to ascertain the weaknesses of the treaty in its administration, to learn the requirements of the native people, and to suggest such changes as it is hoped will best retrieve the errors of the past and maintain a strong and stable government in future.

I am by no means sanguine that the form proposed will produce the effect desired, for while I have no doubt that any one of the great powers could easily govern these islands in the manner proposed, I fear their ability to do so when acting together, and I can not forbear to impress upon my Government not only the propriety but the necessity of dissolving this partnership of nations which has no precedent for its creation nor reason for its continuance. It will produce national jealousies and endanger the friendly relations that have so long existed between the powers. Considerations of national welfare should terminate this unusual alliance at the earliest moment that it can be done with proper regard for the rights and interests of the powers concerned. Should the plan of government recommended by the commission meet with approval I can not urge too strongly that it be put into operation at the earliest moment. The provisional government is now in the hands of the consuls. We have delegated to them all the executive power vested in the commission so far as we were able to do so under our power to establish a provisional government. \* \* \* Mr. Hamilton Hunter represents England, Luther W. Osborn the United States, and Mr. Grunow, formerly vice-consul, the Empire of Germany. Mr. Hunter is a man of considerable experience in the Pacific islands and has some knowledge of native character. Mr. Osborn has been

"through the war," but seems unobjectionable to all parties. He is a good lawyer and his knowledge derived from past experience will be of service in the future. Mr. Grunow is a young man, but of some experience and ability. He, too, was in Apia during the recent troubles and brings with him into his office as consul not only recollections but some prejudices also as to the post. It is generally better that new men fill these places, for while they may lack in experience they are free from bias and prejudice, fostered and strengthened by recent events, which often color their action and lessen their influence. Chief Justice Chambers expressed his desire to return home immediately on my arrival. I did not object, but deemed his action a wise one. The judge is a good lawyer and an honest man, but it would have taken years for him to have overcome the prejudice which his decision raised against him among the native people. Mr. Osborn has been temporarily appointed to fill his place, but his duties as consul, to which have been added the executive duties of the government, require that the place of chief justice should be immediately filled. Dr. Solf, president of the municipality, acts as adviser to the consuls under the provisional government, as he did to the king under the former government.

The commissioners are not satisfied with the form of government we were obliged to leave provisionally in force. We would have preferred to have assimilated it more to the form of the permanent government proposed, but with the material at hand the members of the commission were wholly unable to agree upon a person for administrator, and we leave the matter to the powers, trusting they will recognize the fact that the present government must be treated as a provisional one in the literal sense and that immediate action should be taken to replace it with one of greater strength and influence. The Samoans are not a difficult people to govern; they are a volatile, emotional people; they are suddenly angered, but harbor no resentment or revenge; their reconciliation is as rapid and demonstrative as their anger is sudden and violent. They require a prompt and energetic government rather than a strong and powerful one. A few small vessels with rapid-fire guns can reach every village of the islands and a few detachments of soldiers for police duty on shore would maintain peace everywhere. The islands are in shape not unlike that of a hat; the interior, representing the crown, is mountainous and uninhabited; the rim, or shore, is covered with cocoanut palms, bread fruit, pineapples, bananas, and all the tropical fruits which furnish the native food. Around this rim or shore line are situated all the villages and homes of the native people, so that the islands are easy to patrol on shore or by sea, and a government in which the native has confidence and is taught to respect can be administered with small display of force and little expense. Battle ships and large cruisers are worthless in these waters. The harbors are small and difficult of access, but vessels not exceeding 1,500 tonnage—better 1,000—can enter and anchor in most of the harbors of the islands. Our vessel, the *Badger*, we found too large for the island trip and we accepted the kind offer of the *Tutane-kar*, a New Zealand vessel of about 1,000 tons, which took us around Savaii, Apolima, Manono, and a portion of the island of Upolu, anchoring in places where larger vessels would not dare approach.

These islands have been described so many times in the very able reports of consuls and former commissioners that I shall not attempt to go over the ground they have so well and so fully covered. They

are very beautiful in appearance, and the climate in winter—our summer at the north—is indeed charming. The level and mountain land is covered with trees and timber of every variety. Unlike the Hawaiian Islands the mountains are green to their very tops. But little is known of the interior; beautiful waterfalls are seen from the harbor of Apia, said to be more than 400 feet in height, which are still inaccessible for want of roads. Virgin forests of splendid timber are yet untouched by native hand. The finest tropical fruits in the world, including oranges, limes, pineapples, bananas, mangoes, cocoanuts, and bread-fruit grow wild and in abundance. Outside of the great German and a few other plantations, everything is in a state of nature. The soil is fertile but rocky, and fitted only for growth of shrubs and trees. The soil is decomposed lava and scoria. Much of the lava rock is still undecomposed, so that cultivation in the ordinary manner is impracticable and quite impossible. Such implements as plows, drags, drills, and cultivators are useless here and, indeed, unknown. Trees of all kinds throw down their roots into the loose, porous lava rock, and a kind of low vine in the forest of cocoanut and other trees creeps over the low lying rock, so that until disturbed the ground appears level and not unlike the dark soil of our Western land, but in most parts of the islands when disturbed it is found to be a broken mass of lava rock. Where it has been attempted to be removed in constructing roads through one of the German plantations, at the western end of Upolu, and where we spent a very pleasant Sunday, the rock removed from the roadway was sufficient in amount to construct a high wall on either side. The cultivation of cotton was at one time attempted by planting in hills from which the rock was removed, but the labor was found too great and it has been practically abandoned. Shrubs of all kinds thrive in the lava rock. Coffee, it is believed, will yet be cultivated with success. Cocoa thrives, and the plantations are being largely increased. Copra, the product of the cocoanut, is still the principal article of export. All the tropical fruits which grow here in their wild state improve much by cultivation. The natives are not inclined to labor, and nearly all the laborers on the great plantations are brought from New Guinea and the Solomon Islands.

It is believed that as the native becomes better educated and more and more adopts the habits of civilization he will devote his attention more to the raising of copra, cocoa, and other commercial products, and in this way his time will be better occupied than in the discussion of native politics and the propagation of island or tribal war. The greatest impediment to civilized progress has hitherto been the communal character of property. The land of the natives and much of their personal property is held in common, and their government is largely patriarchal. Their chiefs are heads of one great family. If one member of the family is more successful than another, the rest claim as a right, which he is not at liberty to deny, that he should share with them. There is, therefore, no incentive to individual activity. Punishments by fine are paid by the tribe, so that the only real punishment which a native fears is imprisonment with hard labor. The latter is not only a disgrace, but a real punishment. The result is that most misdemeanors in Samoa are punished by hard labor. The missionaries and other humanitarians here are using every effort to induce the natives to abandon this communal plan and to become, like the whites, individuals and men. Some laws looking to the allotment of

lands, retaining still the prohibition upon alienation, would go far in aid of well-directed efforts to overcome this obstruction to native progress.

The importance of the Samoan Islands, however, lies not so much in their commercial advantage as in their geographical location. They are in the great future pathway of commerce, and their importance in this respect can not be overestimated. Savaii, the largest of the group, has no good harbors. Upolu has several small harbors and open roadsteads, for most of the harbors are mere openings in the coral reef. This reef extends around each island at a width varying from a few feet or rods to several miles. Wherever the fresh water comes down to the sea, the coral insect has abandoned his work, and here are found the harbors of the islands. If the stream is small, the opening in the reef and harbor is also small. Generally the projecting headlands near the mouth of the stream, if any, are low, so that these so-called harbors are mere open roadsteads. Some of these are too deep for an anchorage, others too small, so that of all these reef openings but few can be called harbors. We spent several days at Pago-Pago. This, unlike the other reef openings, is a landlocked harbor, a beautiful inland harbor. It resembles one of those picturesque Swiss lakes. The mountains on every side are precipitous and in places perpendicular, and the level land around the water's edge is very narrow and small in extent. Baron Sternburg, my colleague, kindly made me a set of drawings giving a panorama of the entire harbor, which are wonderfully accurate, and I had them photographed (taking the precaution to bring away the negatives), and I inclose you a set corresponding with a set<sup>1</sup> sent also to the Navy Department. You will see marked thereon the place occupied by our projected wharf and coal sheds. The contractors were there and were at work at the time of our visit. I can not impress upon my Government too strongly the necessity of its undivided possession of this harbor. It is the only one worthy of the name in the islands. Tangeloa, on the island of Upolu, the only other harbor, has an open mouth and is too deep for anchorage. In Pago-Pago, after entering the inner harbor, it is as calm as an inland lake. Not a ripple was visible upon the surface of the bay, although a storm was raging at sea and we could hear the waves roaring and the surf breaking in the outer harbor about 2 miles away. The harbor and the entire island should be under our individual control. A coaling station within the harbor or the harbor alone would be of little value. The modern coaling station must be fortified, and to do this the adjoining bay of Leone must be had, with its connecting peninsula. In short, the whole island must be had; and it would, in my judgment, be a wise policy to give our allies and the world to be informed that our interests in Samoa center most closely about Pago-Pago and the island of Tutuila, and that we should not look with favor upon any effort on the part of any nation to interfere with our rights or make them less available for future requirements of the nation by curtailment of our interests in the harbor or in the island itself. Negotiations between England and Germany have been several times had to exchange the undivided interests of the one for the sole possession of other island properties. So far as I am informed, the proposition has been only to surrender to Great Britain the German interests. This Germany will probably decline to do so long as the German firm retains its interests

<sup>1</sup> Not printed.

in the large German plantations; but recently, it is said, large offers have been made by British capitalists for these properties. Should this result be brought about, it would undoubtedly follow that Germany would exchange her Samoan interests for some British island interests, and the United States, which has so long been the buffer power between these two great nations, would be in a position to ask for a severance of the joint rule we have so long maintained contrary to all our former national policies and traditions.

\* \* \* \* \*

Not having the opportunity of seeing Mataafa and Tanu in person at the time of our departure, we deemed it a wise precaution to address to each of them a letter from the commission direct, advising them of the provisional government which we were leaving in charge of the affairs of the islands, acknowledging the valuable services they each had rendered the commission in its efforts to promote peace and establish a stable and permanent government, and reminding them of their promises of obedience and allegiance to the government so established. These letters \* \* \* were left with the consuls with instructions that they should be translated into Samoan and transmitted to Mataafa and Tanu as directed. It will be observed that no promises have at any time been held out to Mataafa of immunity or otherwise further than that he may have the right to expect, should his future action continue to be one of loyalty to the government, and should he continue to use his great influence with the native Samoans in behalf of peace and honest allegiance to the government, that he may be permitted to spend the remainder of his days on his native island and with his family and friends. Mataafa is a strong factor in the politics of Samoa, an all-powerful element in determining the question of peace or war. Should he keep his promises in the future, the government will be benefited by his presence; otherwise he should be removed at once. I have every reason to believe that Mataafa will in future honestly and faithfully keep every promise he has made. He is an old man, in poor health, and over his own signature he has declared "there should be no more king." His ambition is at an end, and the desire to die at home and not in exile he knows can be gratified only by the strict observance of every promise of obedience and loyalty that he has made. Tanu is but a child and does not promise any development of strength for good or evil in the immediate future, and unless he be made the tool of some designing white man, no fears are to be entertained of his hostile action against the provisional or permanent government of the islands.

Trusting that the peace we have been able to establish may be permanent and the changes in the form of government we have proposed may meet in some degree with your approval,

I remain, etc.,

BARTLETT TRIPP.

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[Telegram.]

*Mr. Hay to Mr. Choate.*

DEPARTMENT OF STATE,  
Washington, September 7, 1899.

German Government strongly urges partition of Samoan Islands, the United States to retain Tutuila and adjacent islets, and England

and Germany to divide the rest. The President is disposed to regard this proposition favorably if details can be satisfactorily arranged with due regard to the national interest and to the welfare of the inhabitants. Ascertain discreetly the views of Her Majesty's secretary of state for foreign affairs.

HAY.

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[Confidential.]

*Mr. Choate to Mr. Hay.*

No. 167.]

AMERICAN EMBASSY,  
*London, September 22, 1899.*

SIR: I have the honor to report that, in an interview to-day with Her Majesty's secretary of state for foreign affairs, I endeavored to ascertain his views on the proposition of the German Government for the partition of the Samoan Islands, the United States to retain Tutuila and the adjacent islands and England and Germany to divide the rest, as directed in your cipher telegram received September 8, 1899.

The German ambassador, by the way, had called upon me on the 6th instant, and was evidently possessed of the exact terms of that telegram, and expressed himself as very anxious that the United States Government should press the British Government to consent.

Lord Salisbury had no hesitation in saying that the present mode of governing the Samoan Islands could not succeed, and that he was inclined to favor the partition as the only means of securing good government there, if the details could be satisfactorily arranged, and that he was perfectly willing to give me the present state of the negotiations with Germany, which is that, assuming that the United States would be entirely satisfied with Tutuila, they had got so far as to agree that the terms on which they should divide the rest should be arranged by some sort of arbitration; that the King of Sweden should be the arbitrator; but that upon what rules and principles the arbitration should proceed they had not yet been able to agree.

He said further that the fundamental difficulty was that there were three parties to divide and really only two islands to be divided; that after setting apart Tutuila for us the only other island of any value is that in which Apia is situated. Of course they consider that the United States is to be in no way a party to or concerned in the proposed arbitration.

The main result so far is that both Germany and Great Britain seemed to be convinced that it is impracticable to continue to govern the islands by the present tripartite method—as he said the late commission reported would probably be the case—and the welfare of the islands required a change.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Hay to Mr. Choate.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, November 3, 1899.*

If there is any doubt of the American attitude as to partition of Samoa, you may say to Lord Salisbury that we are favorable to it, pro-

vided that satisfactory terms can be made, and that we shall be content with that portion of the islands east of the one hundred and seventy-first meridian.

HAY.

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*Mr. Hay to Mr. Choate.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 4, 1899.

This Government has no objection to England and Germany coming to a preliminary agreement about Samoan Islands west of the one hundred and seventy-first meridian, subject, of course, to concurrence of the United States.

HAY.

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*Lord Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
Washington, November 27, 1899.

SIR: I have the honor, by direction of the Marquis of Salisbury, to transmit to you herewith a copy, in both English and German texts, of the convention and declaration between Great Britain and Germany, signed on the 14th instant, for the settlement of questions pending between them in regard to Samoa and certain other matters.

I have, etc.,

PAUNCEFOTE.

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[Inclosure.]

CONVENTION.

The commissioners of the three powers concerned having in their report of the 18th July last expressed the opinion, based on a thorough examination of the situation, that it would be impossible effectually to remedy the troubles and difficulties under which the islands of Samoa are at present suffering as long as they are placed under the joint administration of the three Governments, it appears desirable to seek for a solution which shall put an end to these difficulties, while taking due account of the legitimate interests of the three Governments.

Starting from this point of view, the undersigned, furnished with full powers to that effect by their respective Sovereigns, have agreed on the following points:

ARTICLE I.

Great Britain renounces in favor of Germany all her rights over the islands of Upolu and of Savaii, including the right of establishing a naval and coaling station there, and her right of extraterritoriality in these islands.

Great Britain similarly renounces in favor of the United States of America all her rights over the island of Tutuila and the other islands of the Samoan group east of 171° longitude west of Greenwich.

Great Britain recognizes as falling to Germany the territories in the eastern part of the neutral zone established by the arrangement of 1888 in West Africa. The limits of the portion of the neutral zone falling to Germany are defined in Article V of the present convention.

ARTICLE II.

Germany renounces in favor of Great Britain all her rights over the Tonga Islands, including Vivau, and over Savage Island, including the right of establishing



a naval station and coaling station, and the right of extraterritoriality in the said islands.

Germany similarly renounces in favor of the United States of America all her rights over the island of Tutuila and over the other islands of the Samoan group east of longitude 171° west of Greenwich.

She recognizes as falling to Great Britain those of the Solomon Islands at present belonging to Germany which are situated to the east and southeast of the island of Bougainville, which latter shall continue to belong to Germany, together with the island of Buka, which forms part of it.

The western portion of the neutral zone in West Africa, as defined in Article V of the present convention, shall also fall to the share of Great Britain.

#### ARTICLE III.

The consuls of the two powers of Apia and in the Tonga Islands shall be provisionally recalled.

The two Governments will come to an agreement with regard to the arrangements to be made during the interval in the interest of their navigation and of their commerce in Samoa and Tonga.

#### ARTICLE IV.

The arrangement at present existing between Germany and Great Britain and concerning the right of Germany to freely engage laborers in the Solomon Islands belonging to Great Britain shall be equally extended to those of the Solomon Islands mentioned in Article II, which fall to the share of Great Britain.

#### ARTICLE V.

In the neutral zone the frontier between the German and English territories shall be formed by the River Daka as far as the point of its intersection with the ninth degree of north latitude, thence the frontier shall continue to the north, leaving Morozugu to Great Britain, and shall be fixed on the spot by a mixed commission of the two powers, in such manner that Gambaga and all the territories of Mamprusi shall fall to Great Britain, and that Yendi and all the territories of Chakosi shall fall to Germany.

#### ARTICLE VI.

Germany is prepared to take into consideration, as much and as far as possible, the wishes which the Government of Great Britain may express with regard to the development of the reciprocal tariffs in the territories of Togo and of the gold coast.

#### ARTICLE VII.

Germany renounces her rights of extra-territoriality in Zanzibar, but it is at the same time understood that this renunciation shall not effectively come into force till such time as the rights of extra-territoriality enjoyed there by other nations shall be abolished.

#### ARTICLE VIII.

The present convention shall be ratified as soon as possible, and shall come into force immediately after the exchange of ratifications.

In witness whereof the undersigned have signed it, and have fixed thereto their seals.

Done in duplicate at London, the 14th day of November, 1899.

#### DECLARATION.

It is clearly understood that by Article II of the convention signed to-day Germany consents that the whole group of the Howe Islands, which forms part of the Solomon Islands, shall fall to Great Britain.

It is also understood that the stipulations of the declaration between the two Governments signed at Berlin on the 10th April, 1886, respecting freedom of commerce in the western Pacific, apply to the islands mentioned in the aforesaid convention.

It is similarly understood that the arrangement at present in force as to the engagement of laborers by Germans in the Solomon Islands permits Germans to engage those laborers on the same conditions as those which are or which shall be imposed on British subjects nonresident in those islands.

Done in duplicate at London, the 14th November, 1899.

*Convention between the United States, Germany, and Great Britain to adjust amicably the questions between the three Governments in respect to the Samoan group of islands.*

[Signed December 2, 1899. Ratification advised by the Senate January 16, 1900. Ratified by the President February 13, 1900. Ratifications exchanged February 16, 1900. Proclaimed February 16, 1900.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

### A PROCLAMATION.

Whereas, the Convention between the United States of America, Germany and Great Britain, to adjust amicably the questions which have arisen between the three governments in respect to the Samoan group of Islands and to avoid all future misunderstandings in respect to their joint or several rights and claims of possession or jurisdiction therein, was concluded and signed by their respective Plenipotentiaries, at the City of Washington, on the second day of December, 1899, the original of which Convention, being in the English and German languages, is word for word as follows:

The President of the United States of America, His Imperial Majesty the German Emperor, King of Prussia, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, desiring to adjust amicably the questions which have arisen between them in respect to the Samoan group of Islands, as well as to avoid all future misunderstanding in respect to their joint or several rights and claims of possession or jurisdiction therein, have agreed to establish and regulate the same by a special convention; and whereas the Governments of Germany and Great Britain have, with the concurrence of that of the United States, made an agreement regarding their respective rights and interests in the aforesaid group, the three Powers before named in furtherance of the ends above mentioned have appointed respectively their Plenipotentiaries as follows:

The President of the United States of America, The Honorable John Hay, Secretary of State of the United States;

His Majesty the German Emperor, King of Prussia, His Ambassador Extraordinary and Plenipotentiary, Herr von Holleben; and

Her Majesty the Queen of Great Britain and Ireland, Empress of India, the Right Honorable Lord Pauncefoot of Preston, G. C. B., G. C. M. G., Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary:

who, after having communicated each to the other their respective full powers which were found to be in proper form, have agreed upon and concluded the following articles:

#### ARTICLE I.

The General Act concluded and signed by the aforesaid Powers at Berlin on the 14th day of June, A. D. 1889, and all previous treaties, conventions and agreements relating to Samoa, are annulled.

#### ARTICLE II.

Germany renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Great Britain in like manner renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Reciprocally, the United States of America renounce in favor of Germany all their rights and claims over and in respect to the Islands of Upolu and Savaii and all other Islands of the Samoan group west of Longitude 171° west of Greenwich.

#### ARTICLE III.

It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them.

#### ARTICLE IV.

The present Convention shall be ratified as soon as possible, and shall come into force immediately after the exchange of ratifications.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in triplicate, at Washington, the second day of December, in the year of our Lord one thousand eight hundred and ninety-nine.

JOHN HAY	[SEAL.]
HOLLEBEN	[SEAL.]
PAUNCEFOTE.	[SEAL.]

Der Präsident der Vereinigten Staaten von Amerika, Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reiches, und Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, Kaiserin von Indien, von dem Wunsche geleitet, auf freundschaftlichem Wege die Fragen, welche in Betreff der Samoa-Inseln sich ergeben haben, zu erledigen, und allen künftigen Missverständnissen über gemeinschaftliche oder besondere Besitzrechte und Ansprüche oder über Ausübung der Gerichtsbarkeit auf diesen Inseln vorzubeugen, sind übereingekommen, Alles dies durch eine besondere Convention zu ordnen und festzulegen. Nachdem zwischen den Regierungen Deutschlands und Englands, mit Uebereinstimmung derjenigen der Vereinigten Staaten, über ihre wechselseitigen Rechte und Interessen an diesen Inseln bereits ein Uebereinkommen getroffen worden ist, haben die drei vorgenannten Mächte im Hinblick auf das vorerwähnte Ziel nachstehende Bevollmächtigte ernannt:

Der Präsident der Vereinigten Staaten von Amerika den Staatssekretär der Vereinigten Staaten The Honorable John Hay;

Seine Majestät der Deutsche Kaiser, König von Preussen, Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter, Wirklichen Geheimen Rath, Dr. von Holleben;

Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter The Right Honorable Lord Pauncefote of Preston, G. C. B., G. C. M. G.;

welche nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten folgende Bestimmungen vereinbart und ausgemacht haben:

#### ARTIKEL I.

Die von den vorgenannten Mächten am 14. Juni 1889 in Berlin abgeschlossene und unterzeichnete Generalacte wird hiermit aufgehoben; desgleichen werden alle dieser Acte vorausgegangenen Verträge, Abkommen und Vereinbarungen aufgehoben.

#### ARTIKEL II.

Deutschland verzichtet zu Gunsten der Vereinigten Staaten von Amerika auf alle seine Rechte und Ansprüche an der Insel Tutuila und an allen anderen östlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

In gleicher Weise verzichtet Grossbritannien zu Gunsten der Vereinigten Staaten von Amerika auf alle seine Rechte und Ansprüche an der Insel Tutuila und an allen anderen östlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

In gleicher Weise verzichten die Vereinigten Staaten von Amerika zu Gunsten Deutschlands auf alle ihre Rechte und Ansprüche auf die Inseln Upolu und Savaii und alle anderen westlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

#### ARTIKEL III.

Es wird ausdrücklich ausgemacht und vereinbart, dass jede der dreiunterzeichneten Mächte auch fernerhin für ihren Handel und ihre Handelsschiffe in allen Inseln der Samoa-Gruppe die gleichen Vorrechte und Zugeständnisse geniessen soll, welche die Souveräne Macht in allen den Häfen geniess, die dem Handel einer dieser Mächte offen stehen.

#### ARTIKEL IV.

Die vorliegende Convention soll sobald als möglich ratifizirt werden und unmittelbar nach Austausch der Ratifikationen in Kraft treten.

Zu Urkund dessen haben die Unterzeichneten sie vollzogen und ihre Siegel beigeschrieben.

So geschehen in dreifacher Ausfertigung zu Washington, den 2. Dezember 1899.

JOHN HAY	[SEAL.]
HOLLEBEN	[SEAL.]
PAUNCEFOTE.	[SEAL.]

And whereas the said Convention has been duly ratified on the part of each Government and the ratifications of the three Governments were exchanged in the Cities

of Washington, Berlin and London on the sixteenth day of February, one thousand nine hundred, in the following manner, to wit, each Government handing to the Ambassadors of the other two, at its capital, its ratification:

Now, therefore, be it known, that I, William McKinley, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Washington, this sixteenth day of February, in the  
[SEAL.] year of Our Lord one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY

*Secretary of State.*

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*Mr. Tower to Mr. Hay.*

BRITISH EMBASSY,

*Newport, R. I., September 18, 1899.*

SIR: By notes exchanged on the 23d ultimo, the Marquis of Salisbury and the imperial German ambassador in London, embodied the terms of the agreement concluded between Her Majesty's Government and the German Government for referring to the arbitration of the King of Sweden and Norway all claims put forward by British subjects of Germans in Samoa, whether individuals or companies, for compensation on account of losses which they allege that they have suffered in consequence of unwarranted military action on the part of British or German officers between the 1st of January last and the arrival of the joint commission.

On the 24th ultimo it was decided by the two Governments that the British and German representatives at Washington should be instructed to bring the agreement to the knowledge of the United States Government, and request them to join in it.

The following bases proposed by the German Government to carry into effect the agreement have been accepted by Her Majesty's Government:

All claims put forward by Germans or British subjects, respectively, whether individuals or companies, for compensation on account of losses which they allege that they have suffered in consequence of unwarranted military action on the part of British or German officers between the 1st of January last and the arrival of the joint commission in Samoa, shall be decided by arbitration in conformity with the principles of international law or considerations of equity.

The two Governments shall request His Majesty the King of Sweden and Norway to accept the office of arbitrator. It shall also be decided by this arbitration whether, and eventually to what extent, either of the two Governments is bound, alone or jointly with the other, to make good these losses.

Moreover, either of these two Governments may, with the consent of the other previously obtained in every case, submit to the King for arbitration similar claims of persons not being natives who are under the protection of that Government, and who are not included in the above-mentioned categories.

I have now the honor, under instructions from the Marquis of Salisbury, to inform you of the agreement concluded between the two countries, and, should the principle involved be acceptable to you, to invite your Government to adhere to the arrangement which I have quoted above.

I have, etc.,

REGINALD TOWER.

*Mr. von Mumm to Mr. Hay.*

GERMAN EMBASSY,  
*Washington, September 19, 1899.*

MR. SECRETARY: In an exchange of notes on the 23d of last month, the Imperial German and the Royal British Governments have agreed to decide by arbitration the question of indemnity pending between them with regard to the occurrences in Samoa, and, to that end, to request His Majesty the King of Sweden and Norway to act as arbiter in the case.

In accordance with my instructions, I have the honor to notify your excellency of this fact, and to request the United States Government to cooperate in it.

The note sent by Count von Hatzfeldt to Lord Salisbury is of the following tenor:

All claims for indemnity for damages presented by German or British subjects, whether individuals or companies, and which damages they claim to have been subjected to in consequence of unjustifiable military action on the part of English or German officers during the period from January 1 of this year up to the day of the arrival of the commission at Samoa, shall be decided by an arbitral award to be rendered in accordance with the principles of law or the requirements of justice. His Majesty the King of Sweden and Norway is requested by both Governments to undertake the office of arbiter. This award shall further decide whether either of the two Governments, alone or in conjunction with the other, shall pay such indemnities; and if so, to what amount. Each of the two Governments shall, however, have the right, after securing in each case the previous assent of the other Government, to submit to the King's decision, at the same time, similar claims presented by persons, not natives, who are under the protection of either of the two powers, and who do not belong to the classes above mentioned.

Your excellency would greatly oblige me by informing me whether the United States Government is willing to declare its adhesion to the principle involved in the contents of this note, and to cooperate in the matter with the two Governments mentioned.

In the latter case I would have the honor, with the expectation of receiving a reply of the same report, to hand to your excellency a note of the following tenor:

MR. SECRETARY OF STATE:

All claims presented by Germans, American citizens, or British subjects, whether by individuals or companies, for indemnities for damages which they claim to have been subjected to in consequence of the unjustifiable military action of American, English, or German officers during the period from January 1 of this year up to the day of the arrival of the commission in Samoa, shall be decided by an arbitral award to be rendered in accordance with the principles of law or the requirements of justice.

His Majesty the King of Sweden and Norway will be requested by the three Governments to undertake the office of arbiter. This award shall further decide whether either of the three Governments, alone or in conjunction with one of the other Governments, or in conjunction with both the other Governments, shall pay such indemnities; and if so, to what amount.

Each of the three Governments shall, however, have the right, after securing in each case the previous assent of the other Governments, to submit to the King's decision at the same time similar claims presented by persons, not natives, who are under the protection of either of the three powers, and who do not belong to the classes above mentioned.

Your excellency would greatly oblige me by notifying me of the adhesion of the United States Government to the foregoing points.

Accept, etc.,

A. V. MUMM.

*Mr. Hill to Mr. Tower.*

No. 1566.]

DEPARTMENT OF STATE,  
*Washington, September 21, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, stating that by notes exchanged on the 23d ultimo the Marquis of Salisbury and the Imperial German ambassador at London concluded an agreement between Her Britannic Majesty's Government and the German Government for referring to the arbitration of the King of Sweden and Norway all claims put forward by British subjects or Germans for damages suffered by them by reason of the late disturbances in Samoa, and you state, furthermore, that on the 24th ultimo it was decided by the two Governments that the British and German representatives at Washington should be instructed to bring the agreement in question, a copy of which is embodied in your note, to the knowledge of the United States Government, and to request it to join in the same.

In reply I beg to inform you that the matter will have the early consideration of this Government.

I have, etc.,

DAVID J. HILL,  
*Acting Secretary.*

(Same reply to note of September 19, 1899, from German ambassador.)

*Convention between the United States of America, Germany, and Great Britain, relating to the settlement of certain claims in Samoa by arbitration.*

[Signed at Washington, November 7, 1899; ratified by the Emperor, February 18, 1900; ratification advised by the Senate, February 21, 1900; ratified by the Queen, February 22, 1900; ratified by the President, March 5, 1900; ratifications exchanged, March 7, 1900; proclaimed, March 8, 1900.]

WILLIAM MCKINLEY,

PRESIDENT OF THE UNITED STATES OF AMERICA:

*To All to Whom these Presents shall come, Greeting:*

Know Ye; that whereas a Convention between the United States of America, Germany and Great Britain, relating to the settlement of certain claims in Samoa by arbitration, was concluded at Washington, on the seventh of November, one thousand eight hundred and ninety-nine, the original of which Convention, being in the English and German languages, is word for word as follows:

#### CONVENTION.

RELATING TO THE SETTLEMENT OF CERTAIN  
CLAIMS IN SAMOA BY ARBITRATION.

The President of the United States of America, His Majesty the German Emperor, King of Prussia, in the name of the German Empire, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being desirous of effecting a prompt and satisfactory settlement of the claims of the citizens and subjects of their respective countries resident in the Samoan Islands on account of recent military operations conducted there, and having resolved to conclude a

#### ABKOMMEN.

BEHUF'S SCHIEDSGERICHTLICHER REGELUNG  
GEWISSE'S SCHADENERSATZ-ANSPRÜCHE  
AUF SAMOA.

Der Präsident der Vereinigten Staaten von Amerika, Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reiches, und Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, geleitet von dem Wunsche, die durch die jüngst auf den Samoa-Inseln staatgefundenen militärischen Aktionen veranlassenen Schadens-Ersatz-Ansprüche der dortselbst ansässigen Angehörigen der beteiligten Reiche und Staaten baldigst und

Convention for the accomplishment of this end by means of arbitration, have appointed as their respective plenipotentiaries:

The President of the United States of America, The Honorable John Hay, Secretary of State of the United States;

His Majesty the German Emperor, King of Prussia, His Minister in Extraordinary Mission, *Dr. Jur.* Mumm von Schwarzenstein, Privy Councilor of Legation; and

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Mr. Reginald Tower, Her Britannic Majesty's Chargé d'Affaires *ad interim*;

Who, after having communicated to each other their full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

#### ARTICLE I.

All claims put forward by American citizens or Germans or British subjects respectively, whether individuals or companies, for compensation on account of losses which they allege that they have suffered in consequence of unwarranted military action, if this be shown to have occurred, on the part of American, German or British officers between the first of January last and the arrival of the Joint Commission in Samoa shall be decided by arbitration in conformity with the principles of International Law or considerations of equity.

#### ARTICLE II.

The three Governments shall request His Majesty the King of Sweden and Norway to accept the office of Arbitrator. It shall also be decided by this arbitration whether, and eventually to what extent, either of the three Governments is bound, alone or jointly with the others, to make good these losses.

#### ARTICLE III.

Either of the three Governments may, with the consent of the others, previously obtained in every case, submit to the King for arbitration, similar claims of persons not being natives, who are under the protection of that Government,

allseitig zufriedenstellend zu erledigen, und entschlossen, ein Abkommen behufs schiedsgerichtlicher Regelung dieser Fragen abzuschliessen, haben zu Ihren Bevollmächtigten ernannt:

Der Präsident der Vereinigten Staaten von Amerika den Staatssekretär der Vereinigten Staaten, The Honorable John Hay;

Seine Majestät der Deutsche Kaiser, König von Preussen, Allerhöchstihren Gesandten in ausserordentlicher Mission, den Geheimen Legationsrath *Dr. jur.* Mumm von Schwarzenstein;

Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland Allerhöchstihren Geschäftsträger *ad interim*, Mr. Reginald Tower; welche nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten, folgende Bestimmungen vereinbart und ausgemacht haben:

#### ARTIKEL I.

Alle Ansprüche, welche von Amerikanischen Bürgern, von Deutschen oder von Britischen Unterthanen und zwar sowohl von Einzelpersonen wie auch von Gesellschaften, wegen Ersatzes von Schäden geltend gemacht werden, welche sie in Folge der ungerechtfertigten militärischen Aktion amerikanischer, deutscher oder englischer Offiziere, sofern eine solche nachgewiesen wird, in dem Zeitabschnitt vom 1. Januar d. J. bis zu dem Tage erlitten zu haben vorgeben, am welchem die Ankunft der Kommission auf Samoa erfolgt ist, sollen durch einen nach Grundsätzen des Rechts oder nach Erwägungen der Billigkeit zu fällenden Schiedsspruch erledigt werden.

#### ARTIKEL II.

Seine Majestät der König von Schweden und Norwegen wird seitens der drei Regierungen ersucht werden, das Amt des Schiedsrichters anzunehmen. Durch diesen Schiedsspruch soll ferner entschieden werden, ob die eine oder die andere der drei Regierungen, allein oder in Verbindung mit einer der anderen Regierungen, oder in Verbindung mit beiden anderen Regierungen diese Schäden zu ersetzen hat und eventuell in welchem Umfange.

#### ARTIKEL III.

Jeder der drei Regierungen soll es, nachdem sie in jedem Falle die vorhergehende Zustimmung der anderen Regierungen erlangt hat, gestattet sein, dem Schiedsspruche des Königs auch ähnliche Ansprüche von solchen nicht eingebo-

and who are not included in the above mentioned categories.

renen Personen zu unterbreiten, welche unter dem Schutze der betreffenden Macht stehen und nicht den oben erwähnten Kategorien angehören.

## ARTICLE IV.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the German Emperor, King of Prussia; and by Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; and the ratifications shall be exchanged at Washington four months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in triplicate at Washington the seventh day of November, one thousand eight hundred and ninety-nine.

## ARTIKEL IV.

Das gegenwärtige Abkommen soll von dem Präsidenten der Vereinigten Staaten von Amerika unter Zuziehung und mit Zustimmung des Senates der Vereinigten Staaten, von Seiner Majestät dem Deutschen Kaiser, König von Preussen und von Ihrer Majestät der Königin des Vereinigten Königreichs von Grossbritannien und Irland ratifiziert werden; und die Ratifikationsurkunden sollen in vier Monaten von dem heutigen Tage an gerechnet oder wenn möglich früher in Washington ausgetauscht werden.

Zu Urkund dessen haben wir, die unterfertigten Bevollmächtigten, dieses Abkommen unterzeichnet und unsere Siegel beigedrückt.

So geschehen in dreifacher Ausfertigung zu Washington den siebenten November eintausendachthundertneunundneunzig.

JOHN HAY	[SEAL.]
A v MUMM	[SEAL.]
REGINALD TOWER	[SEAL.]

And Whereas the said Convention has been duly ratified on the three parts and the ratifications of the three Governments were exchanged in the City of Washington on the seventh day of March, one thousand nine hundred:

Now, Therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In Witness Whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this eighth day of March in the year of our Lord  
[SEAL.] one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY

*Secretary of State.*



## SIAM.

### ARBITRATION IN THE MATTER OF THE ALLEGED ASSAULT UPON THE UNITED STATES VICE-CONSUL-GENERAL, MR. E. V. KEL- LETT, BY SOLDIERS OF THE SIAMESE ARMY.

*Mr. King to Mr. Hay.*

No. 45.]

LEGATION OF THE UNITED STATES,  
*Bankok, August 9, 1899.*

SIR: In the event of the Department being interviewed by outside parties on the inclosed case, I have honor to request that the Kellett assault case be permitted to stand just where it is for the present, as, in my judgment, this will be for the best interests of the Government.

So far as I know our relations here are most cordial, and I expect them to so remain.

I have the honor, etc.,

HAMILTON KING.

[Inclosure.]

ALLEGED ASSAULT UPON THE UNITED STATES VICE-CONSUL-GENERAL, MR. E. V. KELLETT, BY SOLDIERS OF HIS SIAMESE MAJESTY'S ARMY, IN CHIENGMAI, ON THE 19TH OF NOVEMBER, 1896.—DECISION OF THE ARBITRATORS.

Whereas we, the undersigned, have been duly appointed and authorized, respectively, by the United States and Siamese Governments to investigate a certain alleged assault upon the United States vice-consul-general, Mr. E. V. Kellett, at Chiengmai, in November, 1896, and to arbitrate all questions of law, fact, and reparation of said alleged assault;

Whereas we have held an investigation in both Bankok and Chiengmai, and have heard all evidence obtainable in this matter;

Whereas from said investigation it appears that on the 19th of November, 1896, at about 7 p. m., after and following certain difficulties between said vice-consul-general of the United States and soldiers of His Siamese Majesty's army acting as police, in regard to the arrest of a clerk of said vice-consul-general of the United States, the said vice-consul-general was assaulted in one of the main streets of Chiengmai by a number of said soldiers;

Whereas this unfortunate incident could have been avoided, or at least its gravity lessened, if the Nai Roi Ake, i. e., Capt. Luang Phuvanat, the officer in command of the soldiers who committed said assault—had taken the steps which his duty and the circumstances required;

Whereas the Nai Roi Tri, i. e., Sublieutenant Choi, under whose immediate command the soldiers who committed said assault were placed, and who was present when said soldiers committed the assault, did nothing to prevent them from inflicting injuries upon the person of the vice-consul-general;

Whereas Nais Kram, Niem, and Phun, ordinary soldiers, while obeying certain orders, are convicted of having transcended such orders and of having struck several times said vice-consul-general, using to that effect the butts of their rifles and inflicting bruises upon his body;

Whereas the conduct of said officers and soldiers is to a certain extent excusable, from the excitement resulting from the unusual and imprudent steps taken by said vice-consul-general in this matter: Therefore we have agreed on the following:

I. The Nai Roi Ake, i. e., Capt. Luang Phuranat, shall be recalled to Bangkok

without delay after the publication of this decision; he shall be reprimanded in the presence of an official of the United States legation in Bangkok and a Siamese official of equal rank; he shall lose the grade he holds in His Siamese Majesty's army and shall be reduced to the grade of Nai Roi Toh, i. e., lieutenant, from which he shall not be promoted for a period of two years from date of reprimand; he shall be suspended from the army without pay for a period of one year from date of reprimand; he shall not return to Chiangmai within five years from date of this decision.

II. The Nai Roi Tri, i. e., Sublieutenant Choi, shall be recalled to Bangkok without delay after the publication of the decision; he shall be reprimanded in the presence of an official of the United States legation in Bangkok and a Siamese official of equal rank; he shall not be open to promotion for a period of eighteen months from date of reprimand; he shall be suspended from the army without pay for a period of six months from date of reprimand; he shall not return to Chiangmai within five years from the date of this decision.

III. Nais Kram, Niem, and Phun shall be recalled to Bangkok without delay after the publication of this decision; they shall be reprimanded in the presence of an official of the United States legation in Bangkok and a Siamese official of equal rank; they shall be deprived of their pay during three months from date of reprimand; they shall not return to Chiangmai within five years from date of this decision.

We have also agreed:

(a) That His Siamese Majesty's Government shall express its official regrets to the United States Government, through the latter's representative in Bangkok, that soldiers of His Siamese Majesty's army committed an assault upon the person of a consular official of the United States, and shall duly instruct the chief commissioner of the Monthon Laochieng, Phya Song Surady, to take such steps as will prevent a repetition of such an incident.

(b) That copies of this decision shall be published in the official gazettes of both Governments within a reasonable time after their acquaintance with the same, and one shall be posted on the gateway of the police station in Chiangmai for not less than three weeks and within seventy-five days of date of said decision.

Done in duplicate at Chiangmai this 20th day of September, 1897.

JOHN BARRETT,  
*Minister Resident and Consul-General of the United States,  
Arbitrator on behalf of the United States Government.*

PIERRE ORTS,  
*Assistant Legal Adviser to His Siamese Majesty's Government,  
Arbitrator on behalf of His Siamese Majesty's Government.*

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*Mr. Hill to Mr. King.*

No. 46.]

DEPARTMENT OF STATE,  
*Washington, September 27, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 45, of the 9th ultimo, inclosing a copy of the judgment of the arbitrators in the case of the assault on Vice-Consul-General E. V. Kellett by Siamese soldiers. You indicate on the copy the recommendations of the arbitrators that have been carried into effect and those that have not, and you recommend that the case be permitted to stand for the present just where it is, as, in your judgment, this will be for the best interests of the Government. In reply, I have to inform you that the Department was under the impression that the decision of the arbitrators had been carried into effect long ago. As it has not been, however, the Department does not feel called upon to take the matter up at this late day, and it concurs in your recommendation to let the matter stand for the present just where it is.

I am, etc.,

DAVID J. HILL.

**EXTRATERRITORIAL JURISDICTION—ATTEMPTS OF SIAMESE GOVERNMENT TO IGNORE TREATY RIGHTS OF UNITED STATES CITIZENS.**

*Mr. King to Mr. Hay.*

No. 53.]

LEGATION OF THE UNITED STATES,  
*Bangkok, December 21, 1899.*

SIR:

\* \* \* \* \*

Inclosed you will find a copy of my correspondence with the foreign office on two cases which occurred so near together that I thought it wise to make them the subject of my first protest.

The result is in every way satisfactory, the arms having been returned in a few days, and after a delay and a little pressure the letter of explanation came.

In my first letter I state my position on the question of the rights of American citizens in Siam as laid down by the treaties.

I am quite convinced that it is time to take such a stand and hence report to the Department. If my position is in any way in opposition to the views of my Government I shall be glad to learn what will be expected of me in the event of other cases arising of similar nature.

\* \* \* \* \*

I have, etc.,

HAMILTON KING.

[Inclosure 1.]

*Mr. King to Prince Varoprakar.*

UNITED STATES LEGATION,  
*Bangkok, Siam, October 31, 1899.*

MONSIEUR LE MINISTRE: On the afternoon of Thursday, October 19, two ponies belonging to Mr. Bartine Carrington, a citizen of the United States, were taken into custody by the police of Ban Moh Station. Mr. Carrington immediately applied at the station for his property and was denied possession of the same. He informed the policemen in charge at the time that he was a citizen of the United States, and that he was the owner of said ponies, of both of which facts there seems to be no doubt that the policemen were well aware at the time they took possession of the property.

Mr. Carrington then reported the matter to me and, as consul-general for the United States, I wrote a letter to Mr. Jardine, which was conveyed to him by Mr. Carrington in person, and which received from your inspector-general of police the respectful attention which is set forth in the inclosed letter of Mr. Jardine by the words "I sent him (Mr. Carrington) with your letter to Mr. Lawson" (inclosure No. 1). Mr. Lawson, your superintendent of police at Ban Moh Station, read my letter and told Mr. Carrington that the ponies would be given up only on payment of a certain fine he mentioned, a knowledge of which fine or of the power that presumes to impose such a fine upon a citizen of the United States I must confess I know nothing. Mr. Carrington replied that he was not there to discuss the matter, but simply to present the letter of his consul-general as the case was now entirely in the hands of his consul-general. Your superintendent of police refused to comply with the request of the consul-general of the United States to deliver up goods belonging to a citizen of the United States, which request had been passed on to him by your inspector-general of police. And Mr. Carrington referred the case back to me. About 4 o'clock on the following day the ponies were released after the owner had been deprived of their use for twenty-four hours, and I received a letter from Mr. Jardine, a copy of which I inclose, and to the words of which I respectfully call the attention of your royal highness (inclosure No. 1).

On Friday, October 20, about 11.30 a. m., the revolver and sword of Mr. J. B. West, a citizen of the United States, were seized by one Chom, constable No. 2, in the district of Paklat, which arms Mr. West was carrying as chief inspector of the Spirit Farm at Ratburee. Mr. West was about to depart for his district by his boat at the time. The property was detained under the protest at the time of Mr. West as a citizen of the United States. Mr. West is well known to all the officials in this district, having lived among them now for several years, and it is well known to all implicated in this matter that he is a citizen of the United States. After waiting for more than three hours for his property to be returned to him, Mr. West reported the case to me, as his consul-general, in the evening.

On the morning of October 21 I wrote a letter to Mr. Jardine calling his attention to the irregularity of the proceeding and requesting him to give order that the property be returned to the owner immediately, as the man had already been detained from his business over twenty-four hours. It seems that Mr. Jardine sent an order to the police authorities at Paklat, the contents of which I do not know. On the presentation of this order, the police inspector, one Luang See Sitikdate, refused to give up the arms on the ground that they were now in the hands of the court; the court official, one Luang Cha Muang, second magistrate, the same, however, who accepted the arms the day before, now refused to give them up until his superior should return, who he said was to be absent some week or more; the governor, one Phra: Khajann Songkramm, refused to give them up on the ground that he had nothing to do with the matter, and Mr. West referred the case back to me. I wrote Mr. Jardine a second letter saying that if the matter was not cleared up within twenty-four hours I should be obliged to report it to the foreign office. The result was a letter from him, a copy of which I also inclose (inclosure No. 2). I then wrote His Royal Highness Prince Nares, a copy of whose reply, to the effect that he would investigate, I inclose (inclosure No. 3). After waiting four days I advised Mr. West to secure other arms and to proceed on his way to his business.

Of the property of Mr. West the consul-general of the United States as yet has no knowledge; and as a reply to his final request to have them returned to the owner, he is informed by an official of your Government that he will investigate the matter; a matter which he has never been asked to investigate, inasmuch as the investigation of such a question as the right to detain United States property can in no way be conceded to lie within his province.

Your royal highness is well aware that since my arrival in Siam my Government has been most active in her endeavor to render the Siamese Government every assistance in enforcing her laws, and stands alone in her endeavor to do away with the protégé questions, the only question out of which a case of doubtful jurisdiction can possibly arise. In the light of this fact this positive infringement of the rights of men whose appearance permits of no doubt as to whether they be under Siamese jurisdiction and whose familiar acquaintance with all concerned leaves little doubt that their nationality was known at the time of the several actions becomes all the more serious.

In interpreting all incidents growing out of the protégé questions, I have always exercised the fullest liberty granted me in behalf of your Government, feeling that Siam might be suffering from some things that could not have been foreseen when her treaties were made. In the exercise of police control in the city, unless further abused, it will continue to be a pleasure, in cases of necessity, to grant the right of seizure, on condition always that the case be immediately reported to the United States consular court, the only court which my Government can recognize as having jurisdiction over such cases. Indeed, it shall be my chiefest pleasure to continue the cultivation of those friendly relations between our two nations, the development of which relations constitutes my special mission to Siam. But I would respectfully call the attention of your royal highness to the fact that I can not lose sight of the fact that in the two unfortunate incidents that occurred in my predecessor's time, and to which I have sincerely hoped there would never be a necessity to refer, the Government of the United States put herself on record that the treaty rights of her citizens in Siam must be considered sacred. The decision in the incidents referred to took this question out of the domain of discussion and declared that if the words, "British subjects, their persons, homes, premises, lands, ships, or property of any kind shall not be seized, injured, or in any way interfered with by the Siamese," which words apply equally to United States subjects by the most-favored-nation clause, mean anything, they mean that the entire jurisdiction over the interests of the United States in Siam reside in but one place, and that place is the court of the consulate-general of the United States.

In the light of this fact, I would respectfully invite the attention of your royal

highness to the words of the letter from your inspector-general of police (inclosure No. 1) and to the attitude of his subordinate, Mr. Lawson, in your endeavor to discover the cause of these unfortunate incidents—incidents which have been brought about by the action of Siamese policemen who are under the tuition of such instruction.

In passing, permit me to refer to the entire body of correspondence inclosed as a most discouraging comment on that municipal reform of which I know your royal highness to be so sincerely desirous.

Your royal highness is aware that the right to hold a pony or a revolver involves the right to hold property to the value of an estate; that the right to impose a fine of 2 ticals involves the right to impose a fine to any amount; that, while the largest liberty in other matters may be granted to one as representative of his government, treaties can be changed only by governments, and that a decision so definite as that which has been made upon this point leaves the representative no choice of action.

The minister of the United States can not view these proceedings in any other light than that of a grave incident and a serious infringement of the treaty rights of American citizens. It is with feelings of personal regret that, yielding only to the demands of duty, he enters a solemn protest against these proceedings throughout, requests that the goods of Mr. West be delivered to this consulate-general at once; that an explanation be required from those whose authority so obviously has brought about these unfortunate incidents, contrary, as he must believe, to the spirit of the Siamese Government, and in the event of a repetition of such must claim the right to refer the whole matter to his home Government at once without discussion.

I avail myself, etc.,

HAMILTON KING.

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[Inclosure 2.]

*Mr. King to Prince Varoprager.*

No. 152.]

UNITED STATES LEGATION,  
*Bangkok, Siam, December 8, 1899.*

MONSIEUR LE MINISTRE: The minister for the United States not having received any acknowledgment of his letter of October 31, in which he requested an explanation of the treatment accorded to two citizens of the United States by His Siamese Majesty's Government, begs to inform His Royal Highness Prince Krom Luang Devawongse Varopraker, His Siamese Majesty's minister for foreign affairs, that he feels it his duty to lay the whole matter before his Government at Washington.

This he the more sincerely regrets since this case is so related to the assault case of November 19, 1896, that in connection with the same he must of necessity inform his Government also of the fact that His Siamese Majesty's Government has not complied with the requirements of the decision of the arbitrators in that case, although made known to both Governments at so remote a date as September 20, 1897.

I avail, etc.,

HAMILTON KING.

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*Mr. Hay to Mr. King.*

No. 52.]

DEPARTMENT OF STATE,  
*Washington, February 17, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 53, of the 21st of December last, reporting that you have protested to the Siamese Government against the action of Siamese officials in seizing property belonging to Messrs. Bartine Carrington and J. B. West, American citizens.

The Department approves generally your action as reported in your dispatch.

I am, etc.,

JOHN HAY.

## SPAIN.

### REESTABLISHMENT OF DIPLOMATIC RELATIONS WITH SPAIN.

*Mr. Hay to Mr. Storer.*

No. 1.]

DEPARTMENT OF STATE,  
*Washington, April 18, 1899.*

SIR: The relations of peace and friendship between the United States and Spain, which have for some time past been interrupted, having been restored by the exchange of the ratifications of the treaty of peace between the two countries, signed at Paris on December 10, 1898, a copy of which I inclose for the files of your legation, the President has been pleased to appoint you to be envoy extraordinary and minister plenipotentiary of the United States to Spain.

I send herewith:

1. Your commission in such capacity.
2. A letter addressed to Her Majesty the Queen Regent of Spain, with an office copy thereof.
3. A copy of the printed instructions to the diplomatic officers of the United States.
4. A diplomatic and consular list.

You will send the copy of the President's letter to the foreign office at the time you ask for your audience for the delivery of the original to Her Majesty in person.

I also inclose an original and duplicate letter of credit on the bankers of the United States at London, authorizing them to pay your drafts for salary quarterly, as it becomes due, and for the contingent expenses of the legation actually incurred, not to exceed annually the sum of \$3,100; and for clerk hire the sum of \$1,200 annually. You will affix your signature to both letters and return the original to this Department.

Your salary as fixed by law will be at the rate of \$12,000 per annum. You are referred to the printed instructions to the diplomatic officers of the United States for directions as to the mode of drawing your salary and rendering your accounts, as well as for the regulations relative to the expenditures of your legation.

The archives of your legation will afford information of the questions which have engaged the attention of the two Governments, and further instructions will be sent as required.

Entire confidence is entertained that the affairs of the legation at Madrid will prosper in your hands, and that you will, during your continuance in the mission, contribute in all possible ways toward the building up anew of most cordial relations between the two Governments and peoples.

I am, etc.,

JOHN HAY.

[Inclosure.]

WILLIAM MCKINLEY, PRESIDENT OF THE UNITED STATES OF AMERICA.

To Her Majesty Dona MARIA CRISTINA,  
*Queen Regent of Spain.*

GREAT AND GOOD FRIEND: I have made choice of Bellamy Storer, one of our distinguished citizens, to reside near the Government of Your Majesty in the

quality of envoy extraordinary and minister plenipotentiary of the United States of America. He is well informed of the relative interests of the two countries and of our sincere desire to restore and to cultivate to the fullest extent the friendship which since the independence of the United States has remained almost continually unbroken between the United States and Spain. My knowledge of his high character and ability gives me entire confidence that he will constantly endeavor to advance the interests and prosperity of both Governments, and so render himself acceptable to Your Majesty.

I therefore request Your Majesty to receive him favorably and to give full credence to what he shall say on the part of the United States and to the assurance which I have charged him to convey to you of the best wishes of this Government for the prosperity of Spain and of its sincere trust that with the renewal of friendly intercourse the good will of the two peoples may have firm root and bring forth abundant increase, to their mutual advantage.

May God have Your Majesty in His wise keeping.

Written at Washington this 18th day of April, in the year 1899.

WILLIAM MCKINLEY.

By the President:

JOHN HAY,

*Secretary of State.*

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*Mr. Storer to Mr. Hay.*

No. 3.]

LEGATION OF THE UNITED STATES,

*Madrid, June 17, 1899.*

SIR: I have the honor to report that yesterday, the 16th of June, the ninth day after my arrival in Spain, I, accompanied by Mr. Sickles, the secretary of the legation, was officially received by the Queen Regent for the purpose of presenting my letters of credence.

As is the universal custom for ministers accredited to the court of Spain, in distinction to ambassadors, I made no formal address, but simply stated that I had been sent to Madrid to remain as representative of the United States and was the bearer of a letter from the President, which I begged Her Majesty to receive. I added only that, feeling sure this letter contained expressions of the existing friendship our Government bore toward Spain, to carry out these sentiments I begged to put myself at the service of Her Majesty.

The Queen Regent, in accepting the letter, made no reply except a brief but courteous conversation about Belgium and my journey from there to Spain. The entire audience did not last more than five minutes and was entirely in French.

I have, etc.,

BELLAMY STORER.

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#### RECEPTION OF SPANISH MINISTER TO UNITED STATES.

*The Duke de Arcos to Mr. Hay.*

[Translation.]

WASHINGTON, June 1, 1899.

MR. SECRETARY: I have the honor to notify your excellency that, having been appointed by His Majesty the King of Spain, and in his name by the Queen Regent of the Kingdom, his envoy extraordinary and minister plenipotentiary near the United States of America, I have arrived at this capital for the purpose of taking charge of that high office.

I transmit to your excellency, inclosed, the customary copy of the royal letter accrediting me in that capacity and a copy of the short

discourse which I propose to pronounce upon being received by the President of the Republic.

I therefore request your excellency to have the goodness to ask the President for an audience, in order that I may present him my letters of credence, and to inform me of the day and hour at which it is to take place.

I avail myself of this opportunity to tender to your excellency the assurances of my highest consideration.

ARCOS.

[Inclosure 1.—Translation.]

*Don Alfonso XIII, by the grace of God and the constitution King of Spain, and in his name and during his minority Dona Maria Cristina, Queen Regent of the Kingdom, to the President of the Republic of the United States.*

GREAT AND GOOD FRIEND: The good political and commercial relations which existed between Spain and the United States having been reestablished, we have decided to select Don José Brunetti y Gayso, Duke of Arcos, Grandee of Spain, Gentleman of the Bedchamber to His Majesty, Knight Grand Cross of the Royal Order of Isabel the Catholic and of Naval Merit, Commander of the Royal and Distinguished Order of Carlos III, etc., to represent us in your Republic in the capacity of our envoy extraordinary and minister plenipotentiary. The special qualities which unite in the Duke of Arcos, his recognized merit, and the knowledge which he possesses of the interests of our two countries make us hope that he will be favorably received by you, and we therefore do not hesitate to request you to give entire faith and credit to all that he may tell you in our name; and wishing you happiness and prosperity to your Republic, we are, great and good friend, your good friend,

MARIA CRISTINA.  
FRANCISCO SILVELA,  
*Minister of State.*

IN THE PALACE AT MADRID, *May 3, 1899.*

[Inclosure 2.—Translation.]

MR. PRESIDENT: I have the honor to place in your excellency's hands the royal letter by which Her Majesty, the Queen Regent of Spain, in the name of her august son, King Alfonso XIII, accredits me near this Government in the capacity of envoy extraordinary and minister plenipotentiary.

I have come to renew the relations of friendship which have existed from of old between Spain and the United States, and which were interrupted by the war of last year. The treaty of peace which Spain has signed put an end to that war, and now, looking only to the future, Spain desires that her relations with this Republic may be as friendly as they were in times past, and from the days in which this country was struggling to gain its independence. It is my task to contribute to the renewal of these relations, to strengthen them, and to draw them closer; and in the discharge of it I hope to be aided by the kindness and cooperation of your excellency and of your Government.

*Mr. Hay to the Duke de Arcos.*

No. 1.]

DEPARTMENT OF STATE,  
*Washington, June 2, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, inclosing a copy of the royal letter accrediting you in the capacity of envoy extraordinary and minister plenipotentiary of His Majesty the King of Spain near the Government of the United States, and requesting to be informed when the President will receive you in order that you may present the original to him.



In reply I have the honor to state that the President has been pleased to designate Saturday, the 3d instant, at 11 o'clock a. m., as the day and hour when he will receive you for the purpose. If you will call at this Department on the quarter before that hour I shall be pleased to accompany you to the Executive Mansion and to present you to the President.

Accept, etc.,

JOHN HAY.

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*Reply of the President to Spanish minister's address.*

MR. MINISTER: I receive with the greatest gratification the letter by which Her Majesty the Queen Regent of Spain, in the name of her august son, King Alfonso XIII, has accredited you near this Government as envoy extraordinary and minister plenipotentiary.

You will find, Mr. Minister, a cordial welcome in this country, not only from those whose friendship you acquired during your former residence, but from all our people, who rejoice, as I do, at the renewal of the ancient bonds of amity which, with a brief interruption, have united our nations for more than a hundred years. That these friendly relations may be confirmed and strengthened to the advantage of both peoples is my earnest wish, and I can assure you that every member of this Government will heartily cooperate with you in that desirable end.

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#### RETURN TO SPAIN OF SPANISH PRISONERS OF FILIPINOS.

*Mr. Hay to the Duke de Arcos.*

DEPARTMENT OF STATE,  
Washington, June 14, 1899.

DEAR MR. MINISTER: In pursuance of our conversation last Thursday, I requested the Secretary of War to instruct General Otis to cooperate with whatever agents your Government may appoint in the Philippines for the purpose of effecting the release of Spanish prisoners in those islands. I have a note from the Secretary of War informing me that he has done so.

Yours, faithfully,

JOHN HAY.

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*Mr. Storer to Mr. Hay.*

No. 17.]

LEGATION OF THE UNITED STATES,  
Madrid, June 27, 1899.

SIR: I have to report that yesterday, the 26th of June, I had my first private audience and personal conversation with the Queen Regent. The interview was, on her part, one of entire graciousness and courtesy, fitted and probably meant to show the strong desire on the part of the Queen Regent that the representative of our Government should meet with all the regard shown those of all other countries. The Queen Regent with evidence of deep feeling and interest inquired whether her minister of state had yet arranged an interview with me to discuss the question of the fate of the Spaniards now

prisoners to the natives of the Philippine Islands. She added that the petitions she was receiving every day, and the audiences begged for, with herself, by the families and relatives of these prisoners showed the intense natural interest of her people in the sufferings of these unfortunates and filled her with unspeakable pity. She entreated that I should urge on the President in the name of universal humanity that something be speedily arranged to rescue these prisoners and restore them to Spain.

No criticism of our Government, either for action or nonaction, was suggested in any of the remarks of the Queen Regent; and no feeling was apparent, save the sympathy of a good woman for the suffering, and the wearing responsibility of a good Sovereign to whom her people were looking for aid. \* \* \*

I am practically ignorant of the facts, outside the general historic trend of the march of events, as the discrepancies and contradictions of the American press, when read at this distance, and ten days behind, are so glaring as to afford no guidance, even as to what has been decided or what has been done.

It would be an idle farce to try to glean any clear idea or accurate knowledge from the European press of what is doing or not being done in the Philippines.

Evidently I shall soon be asked by the Spanish Government some pressing and searching questions regarding the President's intentions and his policy concerning article 6 of the treaty of Paris, as interpellations and debates are frequent occurrences in the Cortes on this subject, and the opposition is trying to force the ministry to the defensive on the matter. Unless it be thought by the Department more advisable that I should be left in the attitude of knowing nothing and having no response except that of general good will to make when these questions come, I respectfully ask that I be instructed as to the President's policy, how our Government in general is proceeding to carry it out, and the explanations and grounds of justification of the delay experienced. \* \* \*

I have, etc.,

BELLAMY STORER.

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*Mr. Storer to Mr. Hay.*

No. 25.]

LEGATION OF THE UNITED STATES,  
*Madrid, July 10, 1899.*

SIR: I have the honor to confirm my cipher dispatch of this day, the true reading of which is as follows:

I earnestly recommend the greatest attention should be given to my dispatch No. 17, dated the 27th June. The public and parliamentary interest increases daily.

Since writing that dispatch No. 17 serious outbreaks against public order in Barcelona, Valencia, Zaragoza, and other places have occurred, and, while the riotous demonstrations have mainly been directed in appearance against the imposition of new taxes, it is perfectly understood they have been fomented by interests antagonistic to the present Government of Spain. The apparent unexplained delay in returning to Spain those who are prisoners in the Philippines is used to excite public opinion, both inside and outside the Cortes, for political ends. At the same time the real public opinion, kept alive by sympathy with the sufferings of the prisoners, which rightly or wrongly are believed

to be very great, is liable to be moved against any government which is thought lax or supine in this direction.

The statement officially made on the 8th by the minister of state that he had received a cablegram from General Jaramillo, dated Manila, announcing the release and safe arrival of the garrison of Baler and other prisoners, both civil and military, has added to the interest. The Government here is pressed with inquiries and interpellations, and up to this moment declares it has not been able to obtain the names of those released by Aguinaldo, although it has sent successive telegrams to General Jaramillo. This legation, it was rumored, had official information on the subject, and a deputation of the executive committee of the women of Spain called on me to obtain some assurance. Any details, or even any generalities, that this legation might be able to offer would have an effect not to be measured by the mere facts which can be given.

The impression of the friendly interest and keen appreciation of the importance of this matter on the part of our Government would have a salutary and pacifying result. If the President could have a telegram sent which could be made public, showing his own deep interest and sympathy in any successful efforts to obtain from Aguinaldo the release of these prisoners, I am confident it would have a gratifying effect. Articles translated from newspapers in the United States, showing renewed respect for Spain and sympathy in their troubles and the suffering of those prisoners, which I have been able to send to the Spanish press, have met with wide and favorable comment. The feeling of injury and veiled hostility to the United States in Spain, to judge from what I have thus far observed, is almost entirely among the upper and most highly educated classes. The mass of the people are careless and indifferent as to the results of last year, except so far as taxation has increased and threatens to continue so to do. It is toward the sentiment of this upper and educated class that approaches made in a sincere, yet dignified way, by the friendly spirit of the United States must be directed if public opinion is gradually to be made favorable to our country. The interest and intense sympathy of all this class in the question of the prisoners in the Philippines make it, in my judgment, an opportunity for showing our own feelings of humanity, which it would be wise to not pass over.

I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

No. 30.]

DEPARTMENT OF STATE,  
*Washington, July 17, 1899.*

SIR: Your dispatch No. 17, referred to in your telegram of the 10th instant, has received the attention which its importance demands. The deep interest of Her Majesty, the Queen Regent of Spain, in the liberation of the Spanish prisoners now in the hands of the Philippine insurrectionists is shared by the President, who has done and is doing all in his power to execute the provisions of article 6 of the treaty of peace, by which it is agreed that the United States "will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines."

Notwithstanding the fact that the troops of the United States have carried on a most successful campaign to the north of Manila in the island of Luzon, the insurrection, although believed to be in a great

degree broken, has not, at the present date, largely owing to the intervention of the rainy season when an active campaign is impossible, been sufficiently reduced to procure the enforced liberation of the Spanish prisoners held by the insurgent leaders. Our military authorities have been strictly charged, however, pending the suppression of the insurrection, to leave nothing undone which might effect the release of the Spanish prisoners in the Philippines. As soon as it was suggested by the Spanish Government that they contemplated taking measures for that purpose by direct communication with the insurgents, General Otis was instructed to facilitate these efforts in every possible way.

\* \* \* The steady policy of the President has been to pacify the Philippine Islands as a preliminary to the establishment of permanent order and security to life and property. The military operations have been of a vigorous and brilliant character, and will be sustained until the end is accomplished. It is the intention of the President to execute the provisions of article 6 of the treaty of peace in so far as it is in his power to do so, and the suppression of the insurrection, in which not only Spain, but the whole of Europe must be interested, would enable him to fulfill completely his desire in this respect.

You will note that the clause of article 6 of the treaty of peace relating to the release of prisoners not in the possession of this Government, is not an absolute engagement to obtain the release of Spanish prisoners in the hands of the insurgents, but a pledge that this Government will exercise its best endeavors in this direction.

\* \* \* \* \*

In reply to any question regarding the intentions of this Government upon the subject under article 6 of the treaty of peace, you are authorized to say that this Government will fulfill its engagement, and is preparing the way to do so by suppressing the insurrection in the Philippines.

I have, etc.,

JOHN HAY.

---

*The Duke de Arcos to Mr. Hay.*

LEGACIÓN DE ESPAÑA,  
Washington, July 22, 1899.

DEAR MR. SECRETARY: I am writing you in an informal way, as our former conversations upon the matter I am about to speak of have not been official. I refer to the subject of the Spanish prisoners detained by Aguinaldo.

The Spanish Government has, in Manila, as you know, an agent, who, from the time that the United States Government permitted him to do so, has been in communication with the Filipino chief, and has treated with him about the release of those unfortunate prisoners.

This negotiation necessitates constant consultations with the Government at Madrid and frequent communication with Aguinaldo, which implies a considerable expenditure of time. This could be avoided if our agent could communicate freely by wire with Aguinaldo. But it appears that General Otis is opposed to cipher telegrams being sent to Aguinaldo, and this obstacle the Government which I have the honor of representing is anxiously desirous of having removed. The American Government will understand that if this obstacle subsists, the negotiations will be interminable and the sufferings of the unfortunate prisoners and of their families will

have no end. Besides, General Otis knows what the telegrams are about, so it seems that the measure he has adopted is an exaggerated precaution.

The Spanish Government therefore trusts that the President of the Republic, who has already shown his sincere good will to cooperate in obtaining the liberty of these prisoners, will be good enough to give the necessary orders to General Otis to allow telegrams between our agent and Aguinaldo to pass freely, thus completing the understanding we have come to, which otherwise would be valueless.

The Spanish Government will feel deeply grateful for anything the American Government may do upon this matter, and I, Mr. Secretary, also thank you in advance and avail myself of this opportunity to renew to you the expression of my highest consideration.

ARCOS.

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*Mr. Hay to the Duke de Arcos.*

DEPARTMENT OF STATE,  
*Washington, July 25, 1899.*

DEAR MR. MINISTER: I have received your letter of the 22d of July, in which you tell me that the communications between your agent and the Filipino chief are embarrassed, and may be rendered interminable on account of the indisposition of General Otis to permit cipher telegrams to be sent to Aguinaldo. You state that as General Otis knows what the telegrams are about the measure he has adopted seems to you an exaggerated protection.

The President, as you know, is most anxious that every possible facility be afforded your agent for the accomplishment of the purpose we all have so much at heart—the liberation of the Spanish prisoners in the Philippines. I have therefore requested the Secretary of War to give directions to General Otis to permit the Spanish agent in the Philippines to communicate in cipher or otherwise to the insurgent chief all dispatches, the contents of which may have been made known to General Otis.

I am, etc.,

JOHN HAY.

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*Mr. Hay to the Duke de Arcos.*

DEPARTMENT OF STATE,  
*Washington, July 28, 1899.*

MY DEAR MR. MINISTER: A dispatch just received from General Otis informs us that the Spanish agents in Manila have been given full liberty to negotiate with the insurgents for the exchange of prisoners.

I am, etc.,

JOHN HAY.

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*Mr. Storer to Mr. Hay.*

[Confidential.]

No. 42.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 4, 1899.*

SIR: I have the honor to report the substance of a conversation had this morning with the minister of state at the ministry, where he had requested me to come.

He stated that the Spanish Government appreciated most deeply the magnanimity of our Government in permitting the passage of cipher telegrams to Aguinaldo through his agent, Agoncillo, at Paris. Permission thus to correspond on the subject of the Spanish prisoners and to treat for the terms of their release, he said, was asked by the Duke of Arcos of the United States only on the most pressing grounds, both of humanity and of political necessity, and it was a happy surprise when this permission was granted. I, in reply, called his attention to the often clearly expressed desire on the part of the President and yourself to do anything to be done which might further the release of these prisoners, and that the absolute sincerity of these wishes must now appear. The minister reiterated his expressions of the grateful feelings of the Government of Spain on this subject, and added that under the circumstances he was desirous in the most complete way, as in honor bound, to acquaint me with all the communications, so far as known to his Government. He said the first result was a demand on the part of Aguinaldo for the sum of 7,000,000 Spanish dollars as a ransom, which was afterwards changed to 6,000,000.

The ministry had thought it wise, before absolute refusal, to go so far as quietly to assure itself that the Spanish Congress would, at need, sanction a sum of \$2,000,000, which might have been increased, possibly, to \$3,000,000. But the Government had not deemed it wise or proper to admit the possibility of any payment at all, except enough to cover the shelter and food of these prisoners until they could be returned, without naming any fixed sum as the measure of these charges. To use his own language, "What would and what must have been our answer had Aguinaldo demanded as ransom so many field guns, so many thousand rifles, and so many million cartridges? And money in sums like this means the same thing." He then told me that on the positive refusal of his Government to entertain any such idea all negotiations had ceased, and he assured me he would keep me informed of resumption on either side.

He also told me he had been informed through the Spanish consul at Manila that, should Spain accede to a large money ransom, as demanded by Aguinaldo, the so-called provisional government of the Tagalos would refuse to permit the release of the Spanish prisoners until Spain had, in addition, given formal recognition of this provisional government as a belligerent power. He gave it, finally, as his own personal judgment that it would be useless to try to accomplish anything toward the release of these prisoners save by the loyal and generous cooperation of the United States, and that, so far as could be seen now, nothing remained but to await the crushing of the insurrection by force.

The adjournment of the Cortes the 30th of July has removed or at least postponed, some of the embarrassments of the Government on this subject. During the last three weeks of the session hardly a day went by without fierce attacks by the opposition on \* \* \* the ministry. Bands of women, calling themselves—perhaps being so—the wives and relatives of prisoners, haunted the precincts of the Cortes, particularly the Senate, openly incited to disorder by recognized republican, socialistic, and even Carlist agents. The halls of the Congress had to be cleared of them, as the ordinary official doorkeepers were overcome by this feminine torrent. The scenes of disorder and the flagrant attempted use for political intrigue of what was in itself a deep and legitimate current of sorrow and sympathy for suffering, seems to have brought about rather a reaction in public opinion. This, coupled with the adjournment, may enable

the Government more patiently to await events. The action of the President in allowing the interchange of such negotiations in cipher has had a very happy effect. The bitter feelings which might have remained always against us had our Government done what, from a political and military point of view alone it might have done most legitimately, in refusing such permission, will now be turned directly toward the Tagalos.

\* \* \* \* \*

I have, etc.,

BELLAMY STORER.

*The Duke de Arcos to Mr. Hay.*

LEGACIÓN DE ESPAÑA EN WASHINGTON,  
*Washington, September 11, 1899.*

DEAR MR. SECRETARY: Again I appeal in this informal way to your kindness on behalf of the Spanish prisoners of Aguinaldo. Part of them have been, or are, on the point of being liberated, and I am instructed to ask the American Government to telegraph General Otis to give permission to the Spanish commissioner to go and fetch the prisoners, and to take them every available relief. The commissioner will, I believe, charter a ship, and whatever facilities can be afforded by General Otis will contribute to the liberation of the prisoners, so much desired by the Spanish Government as well as by the American. I hope, Mr. Secretary, that the American Government will do all that is necessary to help our commissioner, and thanking you beforehand in the name of the Spanish Government,

I remain, etc.,

ARCOS.

*Mr. Adee to the Duke de Arcos.*

[Personal.]

DEPARTMENT OF STATE,  
*Washington, September 16, 1899.*

MY DEAR MR. MINISTER: I beg to acknowledge the receipt of your note of the 11th instant, requesting the Government of the United States to instruct General Otis to facilitate the mission of the Spanish commissioner who has been directed to arrange for the liberation of the Spanish prisoners in the Philippine Islands and their return to their native country.

Your note has been communicated to the Secretary of War for his consideration and appropriate determination, of which you will be advised.

Very truly, yours,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to the Duke de Arcos.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 18, 1899.*

Referring to your personal letter 11th relative Spanish prisoners, Secretary War has cabled General Otis to give every facility to Spanish commissioners for the care of released prisoners.

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to the Duke de Arcos.*

DEPARTMENT OF STATE,  
*Washington, September 18, 1899.*

DEAR MR. MINISTER: Referring to your informal note of the 11th instant, in which, acting upon instructions from your Government, you request that General Otis be cabled to give permission to the Spanish commissioners to bring away the prisoners being released by Aguinaldo and to carry them all available relief, it gives me pleasure to confirm my telegram to you of this date advising you that the Secretary of War has to-day cabled instructions to General Otis to afford every facility to the commissioners in the direction asked.

I am, etc.,

ALVEY A. ADEE.

*Mr. Adee to the Duke de Arcos.*

DEPARTMENT OF STATE,  
*Washington, September 18, 1899.*

DEAR MR. MINISTER: It gives me pleasure to take this personal way of informing you that I am advised by the Secretary of War that General Otis reports that there were shipped to Spain on December 13, on the *Cachemire*, 30 Spanish officers and 1,067 enlisted men; May 6, on the *Cataluna*, 71 officers and 30 men; May 30, on the *Leon XIII*, 4 officers and 6 men; June 3, on the *Satrustegui*, 11 officers and 79 men; July 1, on the *Isla de Luzon*, 13 officers and 16 men.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*The Duke de Arcos to Mr. Adee.*

LEGACION DE ESPANA EN WASHINGTON,  
*Washington, September 22, 1899.*

DEAR MR. ADEE: I am in receipt of your telegram and note of the 18th instant, by which you inform me that General Otis has been cabled to give permission to the Spanish commissioners to bring away the prisoners being released by Aguinaldo and to carry them all available relief, and I beg you to have the kindness to convey to the Secretary of War the expression of the gratitude of the Spanish Government for the courteous attention which has been extended to its request.

I remain, etc.,

ARCOS.

*Mr. Storer to Mr. Hay.*

No. 121.]

LEGATION OF THE UNITED STATES,  
*Madrid, November 17, 1899.*

SIR: I have the honor to report that at the request of the president of the council, Mr. Silvela, I had an interview with him this morning upon a matter which he deemed of the highest importance. He stated that the Filipinos had refused to allow any vessel carrying the



American flag to land at or approach the place agreed upon for the liberation of the sick and wounded Spanish prisoners, while the military governor, General Otis, had refused to allow the vessel to fly any other than the American flag. The minister of state gave his assurance that the vessel appropriated for that purpose was totally unarmed and was a Spanish merchant craft. He had been interpellated in the Cortes on this subject and expected to be again, and considered it a matter of grave importance that no obstacle possible to avoid should be allowed to stand in the way of the release of these wounded prisoners. \* \* \*

I consented, in view of the urgency of Mr. Silvela, to cable you immediately, without waiting for his official letter on this subject, which he said I should receive to-morrow.

I have accordingly cabled you to-day a message the true reading of which is as follows:

The Spanish Government embarrassed by refusal permission on the part of military authorities of the United States in Philippine Islands for unarmed vessel receiving sick, wounded Spanish prisoners from the Philippines to fly Spanish flag. Filipinos refuse return to any ship flying the flag of the United States. Earnest request of Spanish Government made to get permission to fly either the Spanish flag or the Geneva Red Cross.

Awaiting your advices, I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 21, 1899.

Your telegram of the 17th instant concerning delivery of Spanish prisoners by Filipinos had due consideration. Reports from general commanding show that real obstacle to surrender lies in the insistence of Filipinos that Spain recognize insurgent government as condition for return of prisoners. Surrender to vessel flying Spanish flag is inadmissible, being tacit recognition. Delivery of prisoners to vessel flying Geneva Red Cross flag would be entirely unobjectionable, and General Otis will be instructed to facilitate such delivery by every means in his power. It is, however, apprehended that the insurgents will refuse this.

HAY.

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*Mr. Storer to Mr. Hay.*

No. 128.]

LEGATION OF THE UNITED STATES,  
Madrid, November 22, 1899.

SIR: I have the honor to acknowledge receipt, this morning, of your cable instruction, the true reading of which I take to be as follows:

Your telegram of the 17th instant, concerning delivery Spanish prisoners by Filipinos, had due consideration. Reports from general commanding show that real obstacle to surrender lies in the insistence of Filipinos that Spain recognize the insurgent government as condition for return of prisoners. Surrender to vessel flying Spanish flag is inadmissible, being tacit recognition. Delivery of prisoners to vessel flying Geneva Red Cross flag would be entirely unobjectionable, and

General Otis will be instructed to facilitate such delivery by every means in his power. It is, however, apprehended that insurgents will refuse this.

I immediately communicated the substance of this instruction verbally to the minister of state, and received his personal acknowledgments of grateful recognition for this friendly action on the part of the Government of the United States.

I have, etc.,

BELLAMY STORER.

*Mr. Storer to Mr. Hay.*

No. 129.]

LEGATION OF THE UNITED STATES,  
*Madrid, November 25, 1899.*

SIR: I have the honor to report that in response to my communication of the substance of your telegraphic instruction of the 21st instant, the receipt of which has already been acknowledged, I have received a letter from Mr. Francisco Silvela, minister of state, of which I beg to inclose a copy and translation.

As thus requested, I have cabled you to-day as follows:

Requested to transmit the thanks of the Spanish Government for most acceptable permission to use Geneva Red Cross.

I have, etc.,

BELLAMY STORER.

[Inclosure.]

*Mr. Silvela to Mr. Storer.*

[Personal.]

MINISTRY OF STATE,  
*Madrid, November 23, 1899.*

SIR: In reply to your letter of yesterday I have only to express the satisfaction with which the Government of His Catholic Majesty is inspired by the decision of the Government of the United States concerning the liberation of the Spanish prisoners in the Philippines.

The solution decided on seems in every way acceptable, and we shall comply with pleasure with the conditions that the vessel sent shall bear the flag of the Red Cross.

I beg you, my dear Mr. Minister, to inform your Government at Washington to this effect, and to add the expression of our grateful recognition of the humane orders transmitted to General Otis.

Accept, etc.,

FRANCISCO SILVELA.

*Mr. Hay to the Duke de Arcos.*

No. 68.]

DEPARTMENT OF STATE,  
*Washington, January 17, 1900.*

SIR: I have the honor to advise you that the War Department has received a telegram from General Otis, dated the 15th instant, reporting the troops of General Schwan as east and south of Santo Tomas, Batanzas, and that General Schwan had liberated about 200 Spanish prisoners, who, at the date of the telegram, were on the way to Manila.

Accept, etc.

JOHN HAY.

*Mr. Hay to the Duke de Arcos.*

No. 69.]

DEPARTMENT OF STATE,  
*Washington, January 24, 1900.*

SIR: I have the honor to advise you that the Secretary of War has received a telegram, dated the 17th instant, from General Otis, stating that the *Alicante* with 88 Spanish officers and 1,039 enlisted men, released prisoners, sailed for Spain on the 13th instant; that 1,500 are still at Manila awaiting shipment, and that probably 700 will be released in the south.

Accept, etc.

JOHN HAY.

*Mr. Hay to the Duke de Arcos.*

No. 73.]

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

SIR: I have the honor to state for your information that the Secretary of War has communicated to me the contents of a cablegram from General Otis, dated the 26th instant, announcing that transportation to Spain was furnished on the 25th instant to the following released Spanish prisoners: 74 officers, 1,000 enlisted men, 22 civilian officials, 21 wives, and 35 children.

Accept, etc.

JOHN HAY.

*Mr. Hay to the Duke de Arcos.*

No. 80.]

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

SIR: I have the honor to advise you that this Department has received through the Navy Department a copy of a telegram from Rear-Admiral Watson, dated the 1st instant, announcing that he had brought to Manila from the Gulf of Rajay, 508 rescued Spanish prisoners.

Accept, etc.

JOHN HAY.

*Mr. Hay to the Duke de Arcos.*

[Personal.]

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

MY DEAR MR. MINISTER: I have received through the Acting Secretary of War a telegram from Major-General Otis stating that an officer, 60 enlisted men, and 2 civil officials, captured Spanish prisoners, had been received on the 8th instant from Tayabas.

I am, etc.,

JOHN HAY.

*Mr. Hay to the Duke de Arcos.*

No. 82.]

DEPARTMENT OF STATE,  
*Washington, March 16, 1900.*

SIR: Referring to previous correspondence on the subject, I have the honor to communicate for your information that I am advised by

the Acting Secretary of War that he is in receipt of a cabled message from Major-General Otis, at Manila, stating that 84 officers and 427 enlisted men, Spanish prisoners of war held by insurgents, also 8 wives and 14 children of officers, were shipped on the 15th to Barcelona.

Be pleased, etc.,

JOHN HAY.

*Mr. Hill to the Duke de Arcos.*

[Personal.]

DEPARTMENT OF STATE,  
Washington, April 17, 1900.

MY DEAR MR. MINISTER: I quote for your information the following cablegram received from the military governor of the Philippine Islands, and dated the 10th instant:

Shipped for Spain to-day 13 officers, 258 men, Spanish army, released from insurgents, 17 wives and children.

Very truly, yours,

DAVID J. HILL,  
Acting Secretary.

#### RELEASE OF CUBAN POLITICAL PRISONERS IN SPAIN.

[Extract from No. 17.]

*Mr. Storer to Mr. Hay.*

LEGATION OF THE UNITED STATES,  
Madrid, June 27, 1899.

\* \* \* Several letters have been received by me since my arrival, both from persons in the United States and from the prisoners in question, regarding sundry Cubans said to be kept in military confinement in various places in Spain for political offenses, claiming right of release under article 6 of the treaty.

I have so far not deemed it advisable to open any correspondence about them with the Spanish Government, as such a course would immediately open the door to counter inquiries regarding the prisoners in the Philippines, inquiries which for the present, until I be instructed as to the President's will and informed by the Department as to the facts I am authorized to consider, I am not prepared to answer.

I have, etc.,

BELLAMY STORER.

*Mr. Hay to Mr. Storer.*

No. 24.]

DEPARTMENT OF STATE,  
Washington, July 7, 1899.

SIR: I inclose herewith copy of a communication from Mr. Gonzalo de Quesada, special commissioner of Cuba to the United States, transmitting a list of Cuban political prisoners held by Spain.

You are instructed to bring the matter to the attention of the Spanish Government, and to ask for a compliance with the provisions of article 6 of the treaty of peace in this and all similar cases.

I am, etc.,

JOHN HAY.

## FOREIGN RELATIONS.

[Inclosure.]

*Mr. Quesada to Mr. Hay.*SPECIAL COMMISSIONER FOR CUBA,  
*Washington, D. C., June 29, 1899.*

SIR: I beg to submit herewith two documents, the first showing 22 Cubans transported to Spanish penal colonies during the late Cuban insurrection, and the second being a petition in favor of the individuals therein mentioned.

The crimes with which all are charged are clearly political, having been committed during the insurrection and for the purpose of furthering its object.

The cases of these men are clearly embraced within article 6 of the treaty of peace with Spain. I therefore respectfully request that the State Department ask the Government of Spain to release these men, as well as all others similarly situated, although not embraced in these lists, and transport them to their homes in Cuba.

I beg that such speedy action be taken in behalf of these men as their unfortunate condition would suggest.

Very respectfully, yours,

GONZALO DE QUESADA,  
*Special Commissioner of Cuba to the United States.*

[Subinclosure 1.]

OFFICE OF THE SECRETARY OF STATE AND GOVERNMENT,  
*Habana, June 10, 1899.*

*Ceuta penal colony.*

1. Carlos Garcia Sierra. Sentenced to life imprisonment and to ten years' hard labor. Crime: Having dynamite.
2. José Gil Hernandez. Same as the previous case.
3. Luis Alfara Pita. Sentenced to twenty years' imprisonment. Crime: Being a guide to the Cuban forces.
4. Angel Asenz Monroe. Sentenced as a rebel to six years' imprisonment. Crime: Suspected of going to join the insurgents.
5. Felipe Hernandez. Sentenced to twenty years' imprisonment for rebellion.
6. Nicasio Lopez. Sentenced to life imprisonment. Crime: Being a spy.
7. Vicente Colon. War prisoner. Crime: Accused of killing a person in the war.
8. Camilo Salcerio. War prisoner. Sentenced to life imprisonment. Crime: Rebellion and being a spy.
9. Felipe Figueroa. War prisoner. Sentenced to life imprisonment and eight years hard labor for having threatened a Spaniard with death.
10. Cecilio Matias Carmona. Sentenced to perpetual chain for answering he did not know the whereabouts of Maximo Gomez when asked by a chief of a column.
11. Francisco Alcolea. Sentenced to perpetual imprisonment with chain because documents were found on him, showing he was a prefect in the rebel field.
12. Antonio Rodriguez Ruiz. Sentenced to twelve years' imprisonment for buying ammunition for the insurgents.
13. Juan Gonzalez Hernandez. Made a prisoner with arms in hand. Sentenced to life imprisonment.

*Cartagena penitentiary.*

14. Enrique Dolé Morales. Sentenced to twenty years' imprisonment. Crime: Taking ammunition from the military pyrotechnic depot in order to aid the insurrection.
15. José de la Rosa Aquino. Same as the preceding one.
16. José Nicolás Guerrero. Same as the preceding one.
17. José Fonticola. Same as the preceding one.

*Burgos penitentiary.*

18. Antonio Capablanca. Sentenced to eight years' hard labor for the cause assigned for those with numbers 14, 15, 16, and 17.

19. Norberto Rojas. Sentenced for having son in the insurrection and for being considered an auxiliary of the same.  
 20. Julian Alvarez Salazar. Sentenced to twenty years for the same cause designated for those with number 14, 15, and others.

*Malaga penitentiary.*

21. Rafael Acosta y Acosta. Awaiting trial for acts committed during his imprisonment in Ceuta.  
 22. Juan Benito Castello. For furnishing cartridges to the insurgents.

[Subinclosure 2.—Translation.]

To the Honorable SECRETARY OF JUSTICE:

The undersigned have the honor to state: That in consequence of the war the workmen of the pyrotechnic depot, Don Enrique, Don José la Rosa, Don José Nicolas Guerrero, Don Julian Alvarez, Don Antonio Capablanca, and Don José Fanticoba, were arrested on account of having furnished the army of liberation with war munitions, for which they were tried and imprisoned at Ceuta and then transferred to Cartegena, where they now remain serving a sentence which we do not believe was just on the part of Spain to inflict. Therefore, it is not just to forsake them. We have been awaiting the ratifications of the treaty of peace so that these brothers might be liberated and returned to their homes. Such has not been the case and we deplore the fact that they continue in their prison, enduring the wrath of their tormentors, on account of being the only Cubans now remaining in Spanish prisons.

Therefore, Mr. Secretary, the undersigned, aware of the most elevated sentiments of justice inspiring you, do not doubt that through your initiative and influence said prisoners shall be liberated by the Government of Spain.

Our hope lies in you, Mr. Secretary, because he who has caused the Jimenez Castellanos proclamation to become effective can also do the same with Don Ramon Blanco's regarding our brothers who have not committed any greater crimes than others who are now free for common offenses.

In appealing to you, we are sure you will acknowledge that our wish is the legitimate expression which moves us in behalf of those wives, parents, children, and brothers shedding torrents of tears in their orphanhood and misery. They place their trust in you.

Habana, May 23, 1899.

SANTIAGO BOSMENIEL ET AL.

[Extract from No. 30.]

*Mr. Hay to Mr. Storer.*

DEPARTMENT OF STATE,  
*Washington, July 17, 1899.*

SIR: \* \* \* You mention in your dispatch (No. 17, June 27, 1899) the reception of numerous letters relating to the Cubans said to be kept in military confinement in various places in Spain for political offenses. Upon this point you will note that article 6 of the treaty of peace makes the following provisions: First, that "Spain will, upon signature of the present treaty, release all prisoners of war, all persons detained or imprisoned for political offenses in connection with the insurrection in Cuba and the Philippines and the war with the United States," and, second, "the Government of Spain will, at its own cost, return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them respectively under this article." By reference to article 6 of the treaty of peace you will observe that while the release of prisoners in the actual possession of

either country is a reciprocal arrangement, and the return of such prisoners to their respective countries of origin at the cost of the Government having them in possession is mutually agreed to; that the release of Spanish prisoners in the hands of the insurgents has not been assumed as an absolute obligation, because of its conditional character, and the United States simply undertakes to obtain such release. There is, therefore, no impropriety in insisting upon the release and return of political prisoners in Spain belonging to Cuba and Porto Rico, even though the Government of the United States be not yet able to accomplish its endeavors with regard to the Spanish prisoners in the Philippines. In the case of political prisoners from the Philippines still held in Spain, it will be well to await the suppression of the insurrection before arranging for their release.

\* \* \* \* \*

I have, etc.,

JOHN HAY.

*Mr. Storer to Mr. Hay.*

No. 33.]

LEGATION OF THE UNITED STATES,

*Madrid, July 19, 1899.*

SIR: I have the honor to acknowledge receipt of your instruction No. 24, bearing date July 7, inclosing communications from Mr. Gonzalo de Quesada, special commissioner of Cuba, and instructing me to bring the matter of Cubans imprisoned for political offenses to the attention of the Spanish Government. With the modifications I shall explain this shall be done at once. I beg to call your attention to the apparent discrepancy in the communications of Mr. Quesada, an explanation of which, if made early, may avoid misunderstandings. The inclosure from him consists of two documents: First, his letter giving a list of twenty-two individuals, described by him as "Cubans, transported to Spanish penal colonies;" and, second, a petition asking for intervention to obtain the liberation of seven, by name, of the above twenty-two, giving as a reason therefor, "on account of" (these seven) "being the only Cubans remaining in Spanish prisons."

This legation, both before and since my arrival, has received written applications, in some cases purporting to be written by the persons themselves, and in other cases in their behalf, from fifteen individuals said to be Cubans imprisoned for political offenses. Of these, four say they are in Cartagena; seven claim to be at Ceuta; four at Burgos, as shown by the list of names I beg to inclose. It will be seen on comparison that not all of these fifteen are included in the list of twenty-two furnished by Mr. Quesada, and the discrepancies are numerous.

Among these letters is one from the prison at Burgos, from Mr. Rafael Joya, whose name does not appear in Mr. Quesada's list. Mr. Joya states that "most of the Cubans held under similar charges have been set at liberty; there remain only four at Cartagena, ten at Ceuta, and four at Burgos." I have hitherto refrained from reply to any of these letters, as I have no means of knowing whether they were mailed with the knowledge or permission of the Spanish authorities. (The position of this legation regarding any correspondence, except through the official channel with Cuban political prisoners, in view of the widespread interest and popular excitement over the non-

return of the Spanish prisoners in the Philippines, is a delicate one.) It would not only be an unfortunate step, but a probable hindrance and delay to relief properly to be demanded and probably to be expected in well-founded individual cases to demand the release of a specific list of names the accuracy of which is far from assured. Until, therefore, I am further instructed I shall bring the matter of Cuban political prisoners in general before the Spanish Government without specifying individual cases.

If I can procure through the ministry of state any official list of those looked upon as Cuban prisoners, even if this Government does not admit the charge on which they are held come within the treaty definition, I will do so.

On this same general subject I beg to report that request from different parts of the United States has been made for this legation to ascertain whether or no two persons called political prisoners from Cuba are or have been in prison at Valencia, and whether they are alive or dead. The names of these persons are Mr. José Redondo and Mr. Nemesio Allendall. Until there is a consul at Valencia I have no means of making unofficial inquiries, and so have referred those making these inquiries to the Department. I venture to suggest that these names appear neither in the list of Mr. Quesada nor among the number spoken of by Mr. Rafael Joya, and that information might be obtained of Mr. Quesada as to them, together with the other persons who are said to be in prison who are not included in his list.

I have, etc.,

BELLAMY STORER.

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[Inclosure.]

*List of Cuban prisoners who have addressed this legation.*

*Cartagena.*—José R. Nicolas, José de la Rosa, Enrique Dole, and José Fonticoba.  
*Ceuta.*—Vicente Puerto Estrada, Luis Alfaro Pita, Andres Salcena, Alcadio Ceulbera, Carlos Garcia Sierra, Cecilio Garcia Carmenate, and José Gil Diaz.  
*Burgos.*—Antonio Capablanca Fernández, Julian Alvarez Salazar, Norberto Rojas Hernández, and Rafael Joya Mesa.

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*Mr. Storer to Mr. Hay.*

No. 37.]

LEGATION OF THE UNITED STATES,  
*Madrid, July 26, 1899.*

SIR: I have the honor to report that while I was absent yesterday evening two persons, representing themselves to be two of the Cubans heretofore imprisoned at Burgos, called at the legation. Their object was to inquire how to obtain passage home, and the ordinary answer was given, as to all persons asking information about shipping matters and going to Cuba—that they should apply to the consul-general at Barcelona. I learn that they said they had just been released. One of them is said to be the Mr. Joya whose release was not claimed by Mr. Quesada, but who had written me before, as was reported in my dispatch No. 33, dated July 19, 1899.

I shall endeavor to find these persons and obtain full information as to why they are here and not returned to Cuba.

The duty of Spain under its treaty engagement is clear; but if, as



I fear, such persons may be only released and left hanging on in this country, some provision will practically have to be made either to transport or support them pending any efforts to obtain the action due from the Spanish Government.

I have, etc.

BELLAMY STORER.

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*Mr. Adee to Mr. Storer.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1899.*

Your 33 received. Following names agree with lists here: Cartagena: José R. Nicolas, José de la Rosa, Enrique Dole, José Fonticoba. Ceuta: Carlos Garcia Sierra, Cecilio Garcia Carmenate. Burgos: Antonio Capablanca Fernández, Julian Alvarez Salazar, Norberto Rojas Hernández.

You will ask their release and return to Cuba, reserving others for further identification.

ADEE, *Acting.*

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*Mr. Adee to Mr. Storer.*

No. 44.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 33, of the 19th ultimo, in which you call the attention of the Department to discrepancies between the lists of Cuban prisoners confined in Spain, which was furnished by Mr. Gonzalo de Quesada and the names which have been brought to your attention directly by persons said to be Cubans imprisoned for political offenses.

Upon examination it is found that nine of the names mentioned in Mr. Quesada's lists agree with names of the persons whose cases you report. They are as follows:

Cartagena: José R. Nicolas is without much doubt the José Nicolas Guerrero, No. 16, of Mr. Quesada's list. José de la Rosa is the same as No. 15 of the Quesada list—José la Rosa Aquino. Enrique Dole is No. 14—Enrique Dolé Morales. José Fonticoba is doubtless an error for No. 17—José Fonticola.

At Ceuta: Carlos Garcia Sierra is No. 1 of the Quesada list; Cecilio Garcia Carmenate is probably the same as Cecilio Matias Carmenate, No. 10 of the Quesada list.

At Burgos: The names given by you are the same as Nos. 18, 19, and 20 in the Quesada list.

I have telegraphed you to-day to present these nine names to the attention of the Spanish Government, to the end that the engagements of article 6 of the treaty of peace may be duly carried out in their regard, reserving the presentation of the other cases until after further inquiry and identification.

Your remarks as to the difficulty of conducting this negotiation upon the mere authority of lists, which are discrepant and deficient in detail of the facts, are appreciated by the Department. Your

efforts should be directed rather toward ascertainment of the facts in the individual cases, where it may be possible, and in this it is trusted that you will be assisted by the Spanish authorities. Your purpose to procure, if possible, through the minister of state, an official list of those looked upon as Cuban prisoners, even if the Spanish Government do not admit the charges on which they are held, is approved.

There remains another class of inquiries to which you advert. The applications made to you from different parts of the United States with respect to the supposed confinement of Mr. José Redondo and Mr. Nemesio Allendall, at Valencia, are the result of the operations of the notorious gang of Spanish swindlers who have for years been endeavoring to extort money from the supposed relatives of the fictitious prisoners. Frequent inquiries of a like character are made of this Department, the case of Nemesio Allendall having been recently the subject of considerable correspondence. You may safely disregard cases of this class.

The Department has been advised by the consul at Gibraltar that a number of prisoners have been released at Ceuta and have found their way to Gibraltar. Most of them claim to have been Cubans and to have been imprisoned for political offenses, and apply to the consul for relief on these grounds. The Department will endeavor to obtain from Mr. Sprague the names of all such persons who have come under his observation, and if it should prove that their cases come within the stipulation of article 6 of the treaty of peace a further instruction on the subject will be sent to you.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

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*Mr. Storer to Mr. Hay.*

No. 41.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 4, 1899.*

SIR: I have the honor to acknowledge receipt to-day of cipher telegram signed "Adee, Acting," reading, when deciphered, as follows:

Your 33 received. Following names agree with lists here: Cartagena: José R. Nicolas, José de la Rosa, Enrique Dole, José Fonticoba. Ceuta: Carlos García Sierra, Cecilio García Carmonate. Burgos: Antonio Capablanca Fernandez, Julian Alvarez Salazar, Norberto Rojas Hernandez.

You will ask their release and return to Cuba, reserving others for further identification.

In a personal conversation with the minister of state this morning I called his attention to the fact that in spite of the release from prison at Burgos of the four persons described by me in my dispatch No. 37, of date July 26, there remained, according to the information had by our Government, sundry others at Cartagena, Ceuta, and possibly elsewhere. The minister said that he had been informed to the contrary; that according to the minister of justice those at Burgos were the last remaining, but if I could send him a list he would have the case examined at once without any delay. I venture here to call attention again to the statement of the petition signed Bosmeniel and others, transmitted by Mr. Quesada, that the four at Burgos "were the only Cubans now remaining in Spanish prisons."

As intimated in my No. 37, the Spanish Government on my request

made in general terms, without venturing to give names, immediately released from prison at Burgos four prisoners, who are now here in Madrid, supported entirely by what I give them, and under the following circumstances:

Those released from Burgos by the Spanish Government are the three named in your telegram received to-day, to wit: Antonio Capablanca Fernandez, Julian Alvarez Salazar, Norberto Rojas Hernandez, and the other whose name was not transmitted by Mr. Quesada, and was not found in the lists in the Department, but who was, nevertheless, there in prison, and is now here, to wit, Rafael Joya Mesa.

According to the story of these men, on release each was asked if he had a preference as to which seaport he should go. Either by carelessness, misunderstanding, or maladministration they were released practically as ordinary prisoners, who are turned loose with a small sum for support to their place of abode. As the amount of this sum is computed by way of mileage, these Cubans were keen enough to ask for the most distant seaport, Cadiz, without any special intention to go there.

They then spent nearly every cent in coming by rail to Madrid instead, where, until I heard of it and intervened, they subsisted by asking charity and obtaining assistance from the employees of a small, radical Republican newspaper, often suppressed by the police, which was making public the matter in order to provoke friction and excite sensation.

I have allowed these men daily enough to live on on condition of keeping perfectly quiet and giving no interviews to any newspapers; and Mr. Sickles is gradually with some difficulty getting from each a detailed statement in writing.

As soon as I was able to get the matter to the minister of state—who has been at San Sebastian—this morning, I obtained the ready promise that the civil governor of Madrid should at once transport these four Burgos repatriados to the seaboard and provide shipping there. At my suggestion any other prisoners falling within the treaty of Paris will be conveyed to the nearest seaport at the fitting time to take steamer, and not be allowed to wander over Spain or come to Madrid.

Your telegram having given me the names, I have at once transmitted the list to the minister of state for his examination.

I have, etc.,

BELLAMY STORER.

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*Mr. Adee to Mr. Storer.*

[Telegram.]

DEPARTMENT OF STATE,

*Washington, August 4, 1899.*

Supplementing telegram yesterday, following names in your list now verified:

Andres Salceiro Acebo, life sentence, military rebellion; Arcadio Curbera Echeverria, same sentence; José Gil Diaz, same; Rafael Joya Mesa, at Burgos, twelve years, treason.

You will present these names.

ADEE, *Acting.*

*Mr. Sickles to Mr. Hay.*

No. 45 B.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 7, 1899.*

SIR: I have the honor to acknowledge receipt on the 5th instant of telegram, signed "Adee, Acting," reading, when deciphered, as follows:

Supplementing telegram yesterday, following names in your list now verified: Andres Salciero Acebo, life sentence, military rebellion; Arcadio Curbera Echeverria, same sentence; José Gil Diaz, same; Rafael Joya Mesa, at Burgos, twelve years, treason. You will present these names.

In accordance with this last telegram, I have transmitted to the minister of foreign affairs the names of Andres Salciero Acebo, Arcadio Curbera Echeverria, and José Gil Diaz, with the request that, if on examination the necessary facts appear, their release and transfer to Cuba be made as speedy and uninterrupted as possible.

As regards Rafael Joya Mesa, who has been in prison at Burgos, Mr. Storer already referred his case to the Spanish Government, together with those of the three other Burgos prisoners, Antonio Capablanca Fernandez, Julian Alvarez Salazar, and Norberto Rojas Hernandez.

These Burgos prisoners, as stated in Mr. Storer's dispatch, No. 41, dated August 4, 1899, have already been set at liberty.

I have, etc.,

STANTON SICKLES, *Chargé.*

*Mr. Sickles to Mr. Hay.*

No. 46.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 9, 1899.*

SIR: I have the honor to acknowledge receipt to-day of cipher telegram signed "Adee, Acting," reading when deciphered as follows:

Your dispatch No. 37 received. Rafael Joya is deemed to come under article 6, treaty of peace. If his identity be verified, claim his return to island of Cuba. Watch carefully and verify any similar instances.

In reply I beg to state that by order of the Spanish Government Rafael Joya, together with his three fellow-prisoners at Burgos, started yesterday for Cadiz, and will embark at this port on the 10th instant bound for the island of Cuba.

I have, etc.,

STANTON SICKLES, *Chargé.*

*Mr. Sickles to Mr. Hay.*

No. 52.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 14, 1899.*

SIR: I have the honor to inform you that I have received to-day an official communication from the minister of foreign affairs, acquainting me with the issue of a royal decree, transmitted through the ministry of state to the presidency of the council of ministers, urging the necessity of directing the most pressing orders for the immediate

release of all Cubans and Filipinos who may be found in the Spanish prisons, on account of the insurrections of Cuba and the Philippines.

The president of the council of ministers has already given the necessary instructions, and I am assured by his excellency the minister of state that the provisions of article 6 of the treaty of Paris will within a very few days be carried out by His Majesty's Government.

I am also officially informed by the minister of state that the Cuban political prisoners, Antonio Capablanca, Norberto Rojas, Julian Alvarez, and Rafael Joya were furnished with passports to Cadiz on the 8th instant, from which port they sailed for Cuba on the 10th instant.

I inclose a copy and accurate translation of the Spanish official note.

I have, etc.,

STANTON SICKLES, *Chargé*.

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[Inclosure.—Translation.]

*Mr. Dupuy de Lome to Mr. Sickles.*

MINISTRY OF STATE,

*Palace, August 11, 1899.*

MY DEAR SIR: The notes of your legation Nos. 26 and 30, of the 4th and 7th instants, giving the names of some Cuban prisoners at Cartagena and Ceuta, have been duly received by this ministry. The necessary orders have at once been given to the proper quarters for the immediate release and transportation to Cuba of the individuals named in the above notes, as provided by article 6 of the treaty of Paris.

A royal order has been transmitted by this department on the 5th instant to the ministry of the council of ministers, urging the necessity of issuing most pressing orders for the immediate release of all Cubans and Filipinos who may be found in Spanish prisons on account of the insurrection of Cubans and the Philippines. The president of the council of ministers has already given the necessary instructions, and in view thereof I can assure you that the provisions of article 6 of the treaty of Paris will within very few days be carried out by His Majesty's Government.

The Cubans Antonio Capablanca, Norberto Rojas, Julian Alvarez, and Rafael Joya were furnished with passports to Cadiz on the 8th instant, from which port they must have already sailed for Cuba.

I avail myself, etc.

Per authorization:

E. DUPUY DE LOME.

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*Mr. Adee to Mr. Storer.*

No. 59.]

DEPARTMENT OF STATE,

*Washington, August 22, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 41, of the 4th instant, in which you report your action in regard to the Cuban political convicts who have been released from confinement at Burgos and elsewhere, and whose cases have been the occasion of previous correspondence by mail and telegraph.

The prompt action of the minister of state in promising you that the four men released from Burgos, as described in your No. 37, should be at once transported to the seaboard and there be provided with shipping, indicates that no question is or will be raised as to the obligation of article 6 of the treaty of peace, and that it will only be necessary for you to bring to attention any similar cases to insure ready execution of the treaty engagement.

In this relation, and referring to my instruction No. 44, of the 3d instant, touching the presence at Gibraltar of a number of persons claiming to have been convicted of political offenses in Cuba and to have been released from confinement at Ceuta, I send you herewith copy of a later dispatch from the consul at Gibraltar, No. 993, of the 4th instant, in which he confirms his telegram of that date, giving the names of the Cubans stranded and destitute at Gibraltar, and gives additional particulars by which their identity may be more conveniently determined, besides which he sends a list of four other released Cubans from Ceuta, who have applied to him for aid and protection to return to their homes.

I am advised by Mr. Quesada, to whom I showed the lists submitted by Consul Sprague, that the only names therein given which appear on his lists of Cubans imprisoned for political offenses are:

Felipe Martinez Rodriguez, field laborer, Matanzas.

Antonio Rodriguez Romero, tinker, Habana.

Luca Morales, colored, laborer, San José Alaja, Habana.

Felipe Hernandez y Torres, carpenter.

Rafael Acosta y Acosta, cigar work, Santa Clara; age, 28 years (whose place of imprisonment is given in Mr. Quesada's list as Malaga and not Ceuta).

As to these five names the instruction heretofore given you will hold good.

You should communicate directly with the consul in regard to the other names listed by him, and be governed by the ascertained facts in each case. Mr. Sprague is instructed to-day to assist you in every possible way, to the end that you may bring all deserving cases coming within the purview of article 6 of the treaty to the attention of the minister of state.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

[Inclosure.]

*Mr. Sprague to Mr. Hill.*

No. 993.]

CONSULATE OF THE UNITED STATES,  
*Gibraltar, August 4, 1899.*

SIR: I have the honor of appending herewith copy of my reply to a telegram received last evening from the Department, which called for the names of the released Cuban prisoners referred to in my dispatch No. 983, under date of the 15th May last.

I also beg to inclose a statement giving particulars as to where these destitute Cubans hailed from, previous to their being sent to the prisons of Ceuta during the rebellion in Cuba.

Without means to return to their native soil, they are forced to remain around this immediate neighborhood, depending upon charity and what little they now and then earn during their frequent visits to this garrison during the day, which, however, hardly suffice to meet their daily subsistence.

Within the last few days a further number of Cubans placed under similar circumstances have arrived at the Spanish lines, also coming from the prisons of Ceuta, and are very anxious to find means to proceed to their homes.

They have already called at this consulate for protection, as they can find no means to obtain employment in this neighborhood.

I beg to inclose the names of those who have lately solicited aid from me.

I am, etc.,

HORATIO I. SPRAGUE,  
*United States Consul.*

[Subinclosure.]

*Mr. Sprague to the Secretary of State.*

[Telegram.]

GIBRALTAR, August 4, 1899.

Rafael Acosta, Martinez Hurtado, Molina Ramos, Perez Lopez, Monteagudo Chanes, Martinez Rodriguez, Rodriguez Romero, Cuadra Cardona, wife, three children, colored.

SPRAGUE.

[Subinclosure 2.]

*List of the names of the released Cubans referred to in dispatch No. 983, under date of May 15, 1899.*

Names.	Occupation.	Residence in Cuba.	Age.
Rafael Acosta y Acosta .....	Cigar work .....	Santa Clara .....	28
Ramon Martinez Hurtado .....	Shoemaker .....	Cienfuegos .....	33
José Molino Ramos .....	Cigar maker .....	Habana .....	47
Rafael Perez Lopez .....	do .....	San Juan de los Rejnedios, Santa Clara .....	47
Emilio Monteagudo Chanes .....	Blacksmith .....	do .....	37
Felipe Martinez Rodriguez .....	Field-labor man .....	Matanzas .....	37
Antonio Rodriguez Romero .....	Tinker .....	Habana .....	37
Pedro Cuadra Cardona, his wife, Felipe Coca Montona, and 3 children, all fine, "colored."	Cook .....	Cardena .....	37

[Subinclosure 3.]

*List of released Cubans from the Ceuta prisons soliciting aid and protection to return to their homes.*

Names.	Occupation.	Residence in Cuba.	Age.
Ramon Canpo y Gonzalez .....	Mechanic .....	Jovellanos, Matanzas .....	37
Luca Morales (colored) .....	Laborer .....	San Jose Alaja, Habana .....	28
Felipe Hernandez y Torres .....	Carpenter .....	do .....	28
José Ochoa Peña .....	Mechanic .....	Established 24 years in Cuba, where he has a son living at Santa Clara. ....	46
Manuel Valdez la Guardia .....	Cigar work .....	do .....	37

GIBRALTAR, August 4, 1899.

*Mr. Sickles to Mr. Hay.*

No. 65.]

LEGATION OF THE UNITED STATES.

Madrid, August 24, 1899.

SIR: I have the honor to inform you that I called personally upon Senor Silvela, minister of state, three days ago, and requested the early release of Cuban political prisoners confined in Spanish penal colonies. At the same time I asked his excellency to send me at his convenience a complete list with the full names of all these prisoners.

In answer to my official visit to Mr. Silvela I received to-day an official communication from the under secretary of grace and justice, the Marquis del Vadillo, informing me that the president of the audiencia of Cadiz has telegraphed him to the effect that eight Cuban political prisoners have been liberated from the Ceuta penitentiary.

The civil governor of Cadiz has been instructed to care for the prisoners until the day they are to embark for Cuba.

Orders have likewise been issued to the presidents of the different concerned "audiencias" of Spain to hasten the liberty of the Cuban and Filipino prisoners who have been confined in the different prisons on account of political charges arising from the last colonial insurrections.

No list of names has as yet been received.

I have, etc.,

STANTON SICKLES, *Chargé.*

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[Inclosure.—Translation.]

*Marquis del Vadillo to Mr. Sickles.*

MINISTRY OF GRACE AND JUSTICE,  
*Madrid, August 23, 1899.*

MY DEAR SIR: I have the honor of informing your excellency that, according to a telegram I have received from the president of the audiencia of Cadiz, eight Cubans who were prisoners at Ceuta are this day released, the civil governor having been advised by telegraph so that assistance may be given them until the time of their embarkation.

All the concerned audiencias have also been notified by telegraph with a view of hastening the release of the Cubans and Filipinos who may be imprisoned for political reasons connected with the last colonial wars.

I seize this happy opportunity of renewing to your excellency assurances of my highest consideration.

MARQUIS DEL VADILLO,  
*Under Secretary.*

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*Mr. Hay to Mr. Sickles.*

No. 65.]

DEPARTMENT OF STATE,  
*Washington, August 30, 1899.*

SIR: I have received with gratification your No. 52, of the 14th instant, announcing that a royal order has been issued directing the release of all Cubans and Filipinos confined in Spanish prisons on the ground of complicity in the insurrection in Cuba and the Philippines.

Referring to the Department's Nos. 44 and 59, of the 3d and 22d instant, respectively, relating to the prisoners already released, you will continue your efforts to identify them and to secure for them in deserving cases the benefits of article 6 of the treaty of peace.

I am, etc.,

JOHN HAY.

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*Mr. Sickles to Mr. Hay.*

No. 75.]

LEGATION OF THE UNITED STATES,  
*Madrid, September 9, 1899.*

SIR: I have the honor to acknowledge receipt of Department dispatch No. 59, dated August 22, 1899, inclosing copies of correspondence between the Department of State and the United States consul at Gibraltar regarding the presence at Gibraltar of a number of persons claiming to have been convicted of political offenses in Cuba and to have been released from confinement at Ceuta.



I have transmitted to the foreign office the names of the following five Cubans who appear in Mr. Quesada's list of Cubans imprisoned for political offenses, to wit:

1. Felipe Martinez Rodriguez.
2. Antonio Rodriguez Romero.
3. Lucas Morales.
4. Felipe Hernandez y Torres.
5. Rafael Acosta y Acosta.

The first four imprisoned at Ceuta and the last confined in the Malaga Penitentiary.

I have communicated with Mr. Sprague in regard to the other names listed by him, and I shall be governed by the ascertained facts in each case, so as to bring all deserving cases coming within the purview of article 6 of the treaty of Paris to the attention of the minister of state.

I am, etc.,

STANTON SICKLES, *Chargé*.

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*Mr. Sickles to Mr. Hay.*

No. 81.]

LEGATION OF THE UNITED STATES,  
*Madrid, September 13, 1899.*

SIR: I have the honor to inform you that in answer to an official note addressed by me to the minister for foreign affairs on the 2d instant in behalf of the Cuban political prisoners confined in the "Ceuta penal colony," and in the Cartagena and Malaga penitentiaries, I have received a communication from the minister of state, an accurate copy and translation of which I beg to inclose.

As you will see, after the reading of said communication, the Spanish Government claims there is but one Cuban prisoner still confined at Ceuta, viz, Vicente Colon (who is the No. 7 in Mr. Quesada's list of Cuban political prisoners, inclosed in Department dispatch No. 24), and who was convicted for murder in 1894, previous to the last Cuban insurrection, and who, therefore, does not come within the purview of article 6 of the treaty of Paris.

I have the honor to inclose also a copy of my note to Mr. Silvela regarding said Cuban prisoners and a copy of the list of Cuban political prisoners which I inclosed in my note to the minister of state.

I am, etc.,

STANTON SICKLES, *Chargé*.

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[Inclosure 1.]

*Copy of official letter addressed to the minister for foreign affairs in behalf of the Cuban political prisoners confined in Spanish penal colonies.*

No. 46.]

LEGATION OF THE UNITED STATES,  
*Madrid, September 2, 1899.*

EXCELLENCY: I have the honor to inclose herewith a list of the Cuban political prisoners confined in the "Ceuta penal colony" and in the Cartagena and Malaga penitentiaries and who are supposed to fall within the provisions of article 6 of the treaty of Paris.

In asking your excellency's kind attention to these cases, I am encouraged to ask if, on examination, the necessary facts appear, that their release and transfer to Cuba should be made as speedy and uninterrupted as possible.

I beg your excellency to accept, etc.,

STANTON SICKLES,  
*Chargé d'Affaires ad interim.*

[Subinclosure.]

*Ceuta penal colony.*

1. Carlos Garcia Sierra, sentenced to life imprisonment and to ten years' hard labor. Crime: Having dynamite.
2. José Gil Hernández. Same as the previous case.
3. Luis Alfaro Pita, sentenced to twenty years' imprisonment. Crime: Being a guide to the Cuban forces.
4. Angel Saenz Monroe, sentenced as a rebel to six years' imprisonment. Crime: Suspected of going to join insurgents.
5. Felipe Hernandez, sentenced to twenty years' imprisonment for rebellion.
6. Nicasio Lopez, sentenced to life imprisonment. Crime: Being a spy.
7. Vicente Colon, war prisoner. Accused of killing a person in the war.
8. Camilo Salcerio, war prisoner, sentenced to life imprisonment. Crime: Rebellion and being a spy.
9. Felipe Figueroa, war prisoner, sentenced to life imprisonment and eight years' hard labor for having threatened a Spaniard with death.
10. Cecilio Matias Carmenate, sentenced to perpetual chain for answering he did not know the whereabouts of Maximo Gomez when asked by a chief of a column.
11. Francisco Alcolea, sentenced to perpetual imprisonment with chain because documents were found on him showing he was a prefect in the rebellion.
12. Antonio Rodriguez Ruiz, sentenced to twelve years' imprisonment for buying ammunition for the insurgents.
13. Juan Gonzalez Hernández, made a prisoner with arms in hand. Sentenced to life imprisonment.
14. Andres Salcedo Acebo.
15. Arcadio Curbera Echeverria.
16. José Gil Diaz.
17. Felipe Martinez Rodriguez.
18. Lucas Morales.

*Cartagena penitentiary.*

19. Enrique Dole Morales, sentenced to twenty years' imprisonment. Crime: Taking ammunition from the military pyrotechnic depot in order to aid the insurrection.
20. José de la Rosa Aquino, same as the preceding one.
21. José Nicolas Guerrero, same as the preceding one.
22. José Fonticola, same as the preceding one.

*Malaga penitentiary.*

23. Rafael Acosta y Acosta, awaiting trial for acts committed during his imprisonment in Ceuta.
24. Juan Benito Castelló, for furnishing cartridges to the insurgents.

[Inclosure 2.—Translation.]

*Mr. Dupuy de Lome to Mr. Sickles.*

MINISTRY OF STATE,  
*Palace, September 11, 1899.*

MY DEAR SIR: Your note No. 46, with inclosed list containing the names of the Cubans yet existing in the Spanish prisons for political offenses, was duly received. From the investigations made to that effect it is found that out of the eighteen individuals mentioned in the list as yet imprisoned in Ceuta there is but one in that penitentiary at present, Vicente Colon by name, who was convicted by the audiencia of Santa Clara, not for political offenses at all, but for murder committed in August, 1894. The rest have either never existed in that penitentiary or they have been released.

The four individuals who appear in your list as being yet imprisoned at Cartagena have been set at liberty, and were furnished with money to the Government's account and passports for Cadiz on the 23d of August last.

Regarding the two individuals mentioned in your list as being at Malaga, we have no information as yet, but it has been asked for with urgency.

I avail myself of this opportunity, etc.

Per authorization.

ENRIQUE DUPUY DE LOME.

The CHARGÉ D'AFFAIRES OF THE UNITED STATES.

*Mr. Sickles to Mr. Hay.*

No. 88.]

LEGATION OF THE UNITED STATES,  
*Madrid, September 19, 1899.*

SIR: I have the honor to inform you that I have to-day received an official communication from the minister for foreign affairs informing me that the following Cuban political prisoners have been set at liberty:

Imprisoned at Ceuta: Carlos Garcia Sierra, Luis Alfaro Pita, Felipe Figueroa, Cecilio Matias Carmanate, Antonio Rodriguez Ruiz, Andres Salcedo Acebo, Arcadio Carbera Echevarria.

Malaga prison: Ramon Acosta y Acosta.

I inclose a copy and accurate translation of the note from the Spanish ministry for foreign affairs.

I have the honor to be, etc.,

STANTON SICKLES, *Chargé.*

[Inclosure.—Translation.]

No. 57.]

MINISTRY OF STATE,  
*Palace, September 18, 1899.*

MY DEAR SIR: In addition to my note dated the 11th instant, with respect to the Cubans who continue to be imprisoned for political offenses at the Spanish penal colonies, I have the honor to inform you that according to advices received from my colleague, the minister of grace and justice, the following prisoners have been set at liberty:

Ceuta Penitentiary: Carlos Garcia Sierra, Luis Alfaro Pita, Felipe Figueroa, Cecilio Matia Carmanate, Antonio Rodriguez Ruiz, Andres Salcedo Acebo, Arcadio Curbera Echevarria.

Malaga prison: Ramon Acosta y Acaota.

I avail myself of the opportunity to renew to you the assurances of my distinguished consideration.

Per authorization.

E. DUPUY DE LOME,  
*Under Secretary of State.*

The CHARGÉ D'AFFAIRES OF THE UNITED STATES.

**PAYMENT OF INTEREST (1898 AND 1899) ON SPANISH INDEMNITY BONDS OF 1834.**

*Mr. Hay to Mr. Storer.*

No. 29.]

DEPARTMENT OF STATE,  
*Washington, July 17, 1899.*

SIR: In pursuance of the convention of February 17, 1834, between the United States and Spain, certain coupons of "renta perpétua de España" were issued by the Spanish Government and were by the United States Government distributed among American citizens

thereto entitled in settlement of their claims against that Government. Holders of these obligations complain to the Department of State of their nonpayment, though long past due.

You will therefore bring the matter to the attention of the Spanish Government and report the result to the Department, so that it may be enabled to inform said holders within what period said obligations will be paid.

I am, etc.,

JOHN HAY.

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*Mr. Sickles to Mr. Adee.*

No. 58.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 21, 1899.*

SIR: In answer to Department dispatch No. 29, dated July 17, 1899, referring to "certain coupons of renta perpétua de España," which were issued by the Spanish Government in pursuance of the convention of February 17, 1834, between the United States and Spain, and which were distributed among American citizens thereto entitled in settlement of their claims against the Spanish Government, I have the honor to report that, in reply to my official communication, the minister of state has transmitted to this legation an official letter, a copy and accurate translation of which I beg to inclose.

I have, etc.,

STANTON SICKLES,  
*Chargé d'Affaires ad Interim.*

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[Inclosure.—Translation.]

*Mr. Dupuy de Lome to Mr. Sickles.*

MINISTRY OF STATE,  
*Palace, August 16, 1899.*

MY DEAR SIR: Your note No. 32, of the 9th instant, transmitting the contents of a dispatch from the Government of the United States relating to the debt arising from the agreement of February 17, 1834, has been duly received by this ministry.

In reply thereto I have the pleasure to state to you that the Government of His Majesty has already given its attention to this matter, carrying its prevision and good faith to the point of providing the necessary sum for the payment of the interest of this debt in the budget lately presented to the Cortes of the Kingdom.

It is my duty, however, to remind you, that you may do likewise to your Government, that, this debt arising out of a treaty which was suspended in virtue of the late war, this matter can not be resolved until the important point of the renovation of the agreements celebrated between the two countries has been decided by the Governments of Spain and the United States.

It is plain that in the protocol of the conference held in Paris on December 8, 1898, between the Spanish and the North American commissioners the latter proposed the inclusion of an article in the treaty of peace renovating all the former treaties, to which proposition the Spaniards objected, because according to them, "some of the treaties were already obsolete or referred to conditions no longer existing, for which reason it was necessary to make a more careful study of each one of them than could be done by the commission."

The Secretary of State of the United States asked very recently if the Government of His Majesty preferred to treat of the matter of the renovation of the treaties in Washington or in Madrid, and, upon having given the preference to Madrid, it was decided that it should be so.

From all that precedes it follows that the Government of His Majesty will resolve as to the payment of the debt of 1834 at the same time that the subject of the renovation of the treaties is considered.

The Government of His Majesty, wishing to give a proof of its constant good

faith, has already taken the proper steps in order to completely guarantee the interests of the holders of the debt of 1834, without this resolution prejudicing in the least the matter which must be resolved by common agreement between the two Governments concerned.

I avail, etc.,

E. DUPUY DE LOME.

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*Mr. Adee to Mr. Storer.*

No. 84.]

DEPARTMENT OF STATE,  
*Washington, October 12, 1899.*

SIR: Referring to the note of the Spanish Government, inclosed in Mr. Sickles's No. 58, August 21, ultimo, touching the payment of the interest due on the debt created by the convention of 1834, the Department is pleased to observe the evidence of the good faith of said Government shown by the provision made in its budget for the payment of said interest. Inasmuch as the obligation to pay the same is made perpetual by the provisions of said treaty, the Department is unable to perceive the connection between said obligation to pay and the payment of said debt, on the one hand, and on the other hand the making between the two Governments treaties of commerce and navigation, or for the extradition of criminals, or in relation to consuls. The Government of the United States does not understand the said note of the Spanish Government as repudiating or denying its permanent and continuing obligation to pay said debt as provided in said treaty, and therefore the subject of the payment thereof would seem to have no relevancy to the negotiation of new treaties.

You will communicate these views to the Spanish minister of foreign affairs, and are at liberty, if requested, to furnish him a copy of this instruction.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Mr. Storer to Mr. Hay.*

No. 123.]

LEGATION OF THE UNITED STATES,  
*Madrid, November 17, 1899.*

SIR: Replying to your instructions Nos. 29 and 84, concerning the delay in payment of the coupons to holders of certificates of the public debt of Spain pursuant to treaty of 1834, I am able to-day, on the assurance of the minister of state, to report the successful termination of the discussion of the matter. The minister of state this morning informed me that the council of ministers had decided to waive any further delay on the formal reestablishment of the treaty of 1834, and to announce to the Government of the United States that those coupons should be paid at once. He asked me in what way the Department desires this payment to be made, as personally he does not remember distinctly what has been the method employed in years past. He adds that the minister of the treasury was under the impression that it was customary to pay these coupons through Habana, but that he did not himself feel thoroughly informed as to the matter and would be pleased to know the wishes of the Department. While the treaty of 1834 calls for the payment of these coupons through Paris, I could give no further information as to the practice.

I have therefore cabled you to-day a dispatch, the true reading of which is as follows:

The council of ministers to-day has decided a payment of coupons under the treaty of 1834 without waiting negotiation new treaty. The Spanish Government asks if place and mode of payment shall continue as before.

I shall be pleased to have your instructions.

I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 18, 1899.

You will express to the minister of state the President's appreciation of the considerate decision of the council of ministers to pay inscriptions of thirty-four without waiting negotiation of new convention. It would be agreeable to us to have place and manner of payment as heretofore.

HAY.

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*Mr. Storer to Mr. Hay.*

No. 135.]

LEGATION OF THE UNITED STATES,  
Madrid, December 5, 1899.

SIR: I have the honor to inclose a copy of a letter just received from the ministry of state, on the subject of the payment of the interest of the public debt of Spain, under the treaty of 1834, and an accurate translation.

I have, etc.,

BELLAMY STORER.

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[Inclosure.—Translation.]

*Mr. Dupuy de Lome to Mr. Storer.*

MINISTRY OF STATE,  
Palace, December 1, 1899.

EXCELLENCY: In addition to what I have had the honor to verbally express to your excellency in reply to your courteous note of November 22 last, I have the pleasure to inform you that on this date I have transmitted to the minister plenipotentiary of His Majesty at Washington, a check against the Riggs National Bank for the amount of \$28,500, in order that the payment of the annuity of 1898, of the sum agreed upon in the treaty of 1834, be made through the Department of State in the usual manner. Besides, the Bank of Spain has instructed its London correspondent, Messrs. Frederick Huth & Co., to place at the disposal of the Spanish minister at Washington the sum of \$28,500 for the payment of the annuity corresponding to the year 1899.

In thus paying the two annuities, which on account of the last war had been suspended, the punctiliousness with which the Government of His Majesty attends to its international obligations will be clearly shown.

I avail, etc.,

E. DUPUY DE LOME,  
Assistant Secretary of State.

*Mr. Hay to Mr. Storer.*

No. 108.]

DEPARTMENT OF STATE,  
Washington, December 8, 1899.

SIR: In further answer to your dispatch No. 123, of November 17, in regard to the payment of the coupons to holders of certificates of the public debt of Spain pursuant to the treaty of 1834, I have to advise you of the place and mode of payments heretofore, concerning which the Spanish ministers of state and of the treasury have asked information from you.

Since an arrangement was reached in 1847 by which the amount due—\$30,000 annually—was reduced to \$28,500 in consideration of payment in Washington, the custom has been for the Spanish legation in this city to transmit to the Secretary of State drafts for that sum payable in New York City. This arrangement became necessary owing to the exhaustion of the coupons attached to the original inscriptions, and thenceforward the money paid in blocks as stated was deposited with the bankers, Riggs & Co., of Washington, and in recent years the Treasury Department, for payment to the holders of the original certificates.

The draft annually transmitted to the Secretary of State toward the end of August is believed to have represented funds furnished by the Spanish treasury at Habana, the payment of the interest having, it would seem, at that time been a charge upon the insular revenues; but I am unable to say by whom the annual drafts for \$28,500 were drawn or upon what account. All that is known here is that they represented bankable funds in New York City.

The telegram sent to you on the 18th ultimo, by which you are instructed to express to the minister of state the President's appreciation of the considerate decision of the council of ministers and to state that it would be agreeable to this Government to have the place and manner of payment as heretofore, was intended to express the Department's desire that the annual payments should be made in the time and manner I have stated—namely, by the delivery to the Secretary of State of a draft upon New York City for \$28,500. \* \* \*

I am, etc.,

JOHN HAY.

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*The Duke de Arcos to Mr. Hay.*

LEGATION OF SPAIN,  
Washington, December 20, 1899.

MR. SECRETARY: Herewith I have the honor to transmit to you, indorsed to your name, a first of exchange No. 113502, drawn by Luis Roy Sobrino, of Madrid, for the sum of \$28,500 upon the Riggs National Bank of Washington, and a check, No. 48, for a like sum, \$28,500, drawn to your order under my signature, and likewise upon the Riggs National Bank of Washington, which sums represent the amount of the interest of the debt growing out of the convention signed on the 17th of February, 1834, between Spain and the United States for the payment of the claims of American citizens from the 22d day of February, 1819.

The two sums of \$28,500 which I have the honor to transmit to you represent the annual payments of 1898 and 1899, the Government of

His Majesty having in this way fulfilled an obligation which the events of 1898 heretofore made it impossible to discharge.

I beg you to be pleased to send me the formal receipts in the usual way, and I improve this occasion to repeat to you the assurances of my highest consideration.

ARCOS.

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*Mr. Hay to Mr. Storer.*

No. 113.]

DEPARTMENT OF STATE,  
*Washington, December 20, 1899.*

SIR: I have to acknowledge the receipt of your No. 135, of the 5th instant, inclosing a copy of a note from the Spanish foreign office stating that arrangements have been made for the payment of the interest due for the years 1898 and 1899 on the Spanish indemnity debt under the treaty of 1834.

The Government of the United States cordially appreciates the friendly and just spirit shown by the Government of Spain in this arrangement of the matter.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Storer.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 21, 1899.*

The Spanish minister has to-day paid ninety-eight and ninety-nine instalments interest in thirty-four bonds, twenty-eight thousand five hundred each. These are accepted in full satisfaction of arrears. Express gratification.

HAY.

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*Mr. Hay to the Duke de Arcos.*

DEPARTMENT OF STATE,  
*Washington, December 21, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant, transmitting to me a bill of exchange drawn upon the Riggs National Bank of Washington, by Luis Roy Sobrino, of Madrid, to the value of \$28,500, and also a check for the like sum of \$28,500, drawn by you to my order upon the Riggs National Bank of Washington, these sums being in satisfaction of the amount of the interest upon the debt growing out of the convention between the United States and Spain of February 17, 1834, for the payment of claims of citizens of the United States and corresponding to the annual payments due in 1898 and 1899, the satisfaction of which has not been practicable until now. I hasten to make this formal acknowledgment of the payment in question in advance of my communication to you of the customary receipts, in order that I may lose no time in expressing to you the sincere gratification which this Government feels by reason of the friendly and just spirit shown by the Spanish Government in meeting the obligations in question.



The formal receipts will be forwarded to you soon as they can be prepared, probably to-morrow.

Be pleased to accept, etc.,

JOHN HAY.

**REGISTRATION UNDER TREATY OF PEACE OF SPANISH SUBJECTS IN CEDED AND RELINQUISHED TERRITORY.**

*The Duke de Arcos to Mr. Hay.*

[Translation.]

LEGATION OF SPAIN,  
*Washington, July 20, 1899.*

MR. SECRETARY: I have learned that, in pursuance of the stipulations of article 9 of the treaty of Paris, a registration office was opened day before yesterday in the island of Cuba, at which office Spaniards residing in Cuba may, according to the provisions of the aforesaid article, declare their intention to retain their nationality. I have not yet received any information as to the character of that office, or whether there are more than one.

As the spirit and letter of said article is that the aforesaid Spaniards may freely elect the nationality that they prefer, I consider that all possible facilities should be afforded them for this purpose, and I consequently have the honor to propose to the American Government the adoption of the following measures:

Spaniards residing in the territories whose sovereignty has been renounced or ceded by Spain may make their declaration of nationality at such registration offices as the American authorities may designate. They may likewise make it at the consulates of Spain. Every month until the expiration of the time fixed by the treaty for registration, the competent authorities shall send to the nearest consulate of Spain a list of the registrations made during that period, and the Spanish consul shall do the same to the American authorities. I think, furthermore, that the registration offices should be as numerous as the conditions of the localities will allow.

I hope that the American Government will have no objection to the adoption of these measures, and that, in view of the fact that several months of the time fixed by the treaty of Paris have already elapsed, it will see fit to issue the necessary orders as speedily as possible.

Thanking the honorable Secretary of State of the United States in advance, I avail myself, etc.,

ARCOS.

*Mr. Adee to the Duke de Arcos.*

No. 31.]

DEPARTMENT OF STATE,  
*Washington, August 9, 1899.*

SIR: Referring to your note of the 20th ultimo relative to the registration of Spaniards in Cuba, I have the honor to inclose a copy furnished by the War Department of order No. 107, issued by the military governor of Cuba.

The Acting Secretary of War is of opinion that this order provides

all possible facilities for the purpose. Should, however, you desire that a list of such registrations be furnished to the Spanish consuls in that island the War Department will take pleasure in issuing the necessary orders to the military authorities.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

[Inclosure.]

No. 107.]

HEADQUARTERS DIVISION OF CUBA,  
*Habana, July 11, 1899.*

The military governor of Cuba directs the publication of the following order:

I. Spanish subjects, natives of the peninsula of Spain, residing in Cuba and who desire to preserve their Spanish nationality, may declare their intention before the mayor of the municipality in which they live within a period of one year, dating from the 11th day of April, 1899. After the lapse of said period they will be understood to have renounced their right and to have adopted Cuban nationality.

II. In the document, which must be drawn up in prescribed form before the alcalde, there will be set forth:

1. The name and surname of the interested party, his age, nationality (specifying the province), civil status, and profession.

2. Name of wife and children, should there be any, and the names of his parents.

3. The date in which the declaration is made and signed. The document shall also be subscribed by the alcalde and the secretary of the municipality.

III. These documents shall be drawn up in triplicate—one for the secretary of state and government, one for file in the municipality in which it is made, and the other for the interested party.

IV. Alcaldes shall transmit immediately to the secretary of state and government the documents of nationalization drawn up before them, and will be held responsible for the exact fulfillment of the provisions of this order.

V. Such of the individuals referred to in Article I as reside in Habana may report to the office of the section of state, in the department of state and government, to make the above-mentioned declaration. In this case the document will be drawn up in duplicate—one for the register of the section and the other for the interested party.

VI. The general register shall be under the charge of the proper section of the department of state.

VII. No fees of any character shall be exacted for the execution of the documents provided for in this order.

ADNA R. CHAFFEE,  
*Brigadier-General, Chief of Staff.*

*The Duke de Arcos to Mr. Hay.*

[Translation.]

SPANISH LEGATION,  
*Washington, August 11, 1899.*

MR. SECRETARY: I had the honor to receive the note of the 9th instant from your Department of State, inclosing the text of the order issued on the 11th July last by the governor-general of Cuba with regard to the registration of those Spanish subjects who wish to retain their nationality, in accordance with the provisions of article 9 of the treaty of Paris of December 10, 1898, and hastened to communicate it to the Government which I represent.

As I deem it necessary for the Spanish Government to know exactly what names are registered, I would be much obliged to the honorable Secretary of State if, in accordance with his offer, he would have the

military authorities of the island of Cuba instructed to send lists of the registrations to the consulate-general of Spain in Habana.

And, at the same time, I beg the honorable Secretary of State to have the kindness to inform me whether the same regulations as those in force in Cuba have already been adopted with regard to Porto Rico and the Philippine Islands, as in that case I extend to those territories my request that the registrations be communicated to the Spanish consulates.

If the necessary orders have not yet been issued in the two territories, I venture to remind the honorable Secretary of State how urgent it is to take some action, as several months of the period fixed by the treaty of Paris have already elapsed.

I avail myself, etc.,

ARCOS.

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*Mr. Adee to the Duke de Arcos.*

No. 35.]

DEPARTMENT OF STATE,  
*Washington, August 26, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, requesting that the military authorities in Cuba would communicate to the consulate-general of Spain at Habana the registration of Spanish subjects in that island, and that the system of registration might be put in force in Porto Rico and the Philippines.

Your note was at once communicated to the War Department, and I have the honor to quote from the Assistant Secretary's reply as follows:

The military authorities in Cuba have been instructed, in accordance with the request of the Spanish minister, and the military authorities in Porto Rico and the Philippine Islands have been directed to issue the necessary orders providing for the registration of Spanish subjects in accordance with article 9 of the treaty of Paris.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Memorandum of interview between the Spanish minister and the Secretary of State.*

DECEMBER 7, 1899.

The Spanish minister called this morning and renewed his request for an extension of the time given to Spanish subjects to make their election of nationality in the Spanish islands. In reply to my remark that it was thought by this Government that a year was time enough to be allowed for that purpose, he said he willingly assented to that, but he thought it should be an effective year, whereas no machinery for the recording of such options was now in existence either in Cuba, Porto Rico, or the Philippines, and he hoped that before the expiration of the time—the 11th of April—the Government of the United States would grant such reasonable extension as may suffice for not only the proper notice to be given, but for the work of recording the options of the Spanish subjects.

*Mr. Hay to the Duke de Arcos.*

No. 57.]

DEPARTMENT OF STATE,  
Washington, December 9, 1899.

SIR: I have the honor to advise you that the Government of the United States has carefully considered the request made in your interview with me of the 7th instant for an extension of the time granted by the treaty of peace to Spanish subjects to make their election of nationality in the islands formerly under the dominion of Spain.

It is thought by this Government that the treaty having specified the date at which this power of election should cease, it is not in the power of the Executive of the United States to change this provision.

I am, moreover, informed by the Secretary of War, that as this declaration of election can be made before any court of record, it is in the power of Spanish subjects to avail themselves of the privilege granted by the treaty at any time within the period prescribed.

Accept, etc.,

JOHN HAY.

*The Duke de Arcos to Mr. Hay.*

[Translation.]

LEGATION OF SPAIN,  
Washington, December 13, 1899.

MR. SECRETARY: I have the honor to acknowledge the receipt of your note No. 57 of the 9th instant, whereby you were pleased to inform me that, after a careful examination by the United States Government of the request made by me in an interview with the honorable Secretary of State of the 7th instant relative to the propriety of extending the time allowed to Spanish residents of the islands which were formerly under the dominion of Spain to choose their nationality, that Government has decided that, inasmuch as the treaty of peace fixes the date when the time allowed for such option ends, the Executive power of the United States can not change that decision.

I return to this matter, Mr. Secretary, because, having thus far discussed it merely by word of mouth in sundry conversations that I have had with you, I deem it proper and necessary that the opinion entertained concerning it by this legation should be stated in writing. I will state this opinion in a few words:

The treaty of Paris of December 10, 1898, says in its ninth article that Spaniards "may retain their Spanish nationality by making at a registration office, within one year after the exchange of the ratifications of this treaty, a declaration of their purpose to retain said nationality." The clear and evident intention of the treaty is to allow to Spaniards one year's time to make said declaration. On the 11th of April next, if the registers are closed on that day, the Spaniards will not have had the year's time granted them by the treaty. In Cuba the governor-general issued an order, No. 107, on the 11th of July last, designating the town halls as registration offices and laying down rules for the enrollment. These offices were open on the 18th of the same month, and it is only since that day that the Spaniards have been able to enroll their names. In Porto Rico the corresponding order bears date of August 21, and it was not published in the

Gazette of Porto Rico, the official organ, until the 13th of September following. The orders issued by the governor-general were, moreover, so tardily executed that I am informed that even in the course of the month of October the municipality of Ponce, the second town in the island, did not receive the declarations of Spaniards, and I do not know when they have finally been able to exercise their right. As the treaty did not determine which were the registration offices that it mentions, it was necessary to define them, and this was done by the American Government through the orders of the governors-general; it was done, however, with the delay which I have mentioned. Before the issuance of those orders Spaniards could not enroll their names, for their declarations would nowhere have been received. They consequently will not have had—without any fault on their part—the full year to which, according to the treaty of Paris, they are entitled.

But, while this state of things is a serious one, the case, in its connection with the Philippine Islands, is far more serious. On the 26th of August I was informed by the Department of State that orders similar to those issued in Cuba and Porto Rico had been sent to the Philippine Islands. It may be presumed that these orders did not reach their destination until after the beginning of October, and, when they had reached there, it was not possible to enforce them save in the few places that were occupied by the American troops. Of those places, with the exception of the capital, there were, doubtless, few in which the occupation was considered permanent enough for the establishment of a registration office. Still, even if this had been done, inasmuch as until recently the places occupied have been comparatively few, and as the Spanish population is very widely disseminated on the islands, it would have been impossible for the Spaniards to avail themselves of the right granted them by the treaty; and this, as in the Antilles, would have been due to no fault of theirs, but merely to the force of circumstances.

In vain does the honorable Secretary of War say, as is stated in your note of the 9th instant, to which I have the honor to reply, that, since those declarations may be made before any court of record, the Spaniards have only to avail themselves of the privilege granted them by the treaty. Where are there any such courts of record in the Philippines? Outside of Manila and a very few other towns, no municipal government is prepared to receive such declarations.

Consequently, the decision of the American Government, if it is to be upheld, is equivalent to the annulment of a provision of the treaty which distinctly says that one year shall be granted to Spaniards in which to make their declarations. I can not believe that such is the intention of the President of the United States. I can not believe that, in a matter in which an arrangement between the two contracting parties is so easy, the Spaniards are to be deprived of all the facilities granted them by the treaty for choosing their nationality, when the principles of modern law all tend to allow to every individual the privilege of choosing his nationality.

I can but hope that the American Government will again take into consideration this matter, which may be summed up very briefly, to wit: The treaty of Paris designates one year in which the Spaniards may make their declaration, and I ask one year for them.

I avail myself, etc.,

ARCOS.

*Mr. Hay to the Duke de Arcos.*

No. 65.]

DEPARTMENT OF STATE,  
*Washington, December 28, 1899.*

SIR: I duly referred for consideration by my colleague the Secretary of War your note of December 13, instant, in which you reverted to the question of the extension of time for the registration of Spanish subjects in Cuba, Porto Rico, and the Philippine Islands under the provisions of the ninth article of the treaty of Paris of December 10, 1898, and modified your position so as to ask, not an extension of time, but for a full year from the time when the arrangements for registration should be made in the respective ceded and relinquished territories, which you take to be the intendment of the treaty. I am now in receipt of the reply of the Secretary of War, the substance of which I have the honor to communicate to you herewith as the views of my Government in the matter.

So far as Cuba and Porto Rico are concerned, there seems to be no substantial allegation of deprivation of right by any peninsular Spanish subject within the purview of the treaty stipulation, or of want of full opportunity to register; neither is there any suggestion that the courts of record of both those islands have not always been open, or that any Spaniard has sought to register his citizenship and been unable to find opportunity, or that any request for any further facility has been refused or ignored.

The treaty of Paris does not impose a specific duty upon the Government of the United States or upon the administration of either of the islands, in the way of imposing a special machinery or designating particular courts of record for the making of the prescribed declarations of Spanish citizenship. Its language is: "In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making before a court of record within a year from the date of the exchange of ratifications of this treaty a declaration of their decision to preserve such allegiance." This provision created a privilege in favor of such peninsular Spanish residents as might desire to establish an exceptional status for themselves while continuing to reside in the islands, any court of record being open to them for that purpose.

The furnishing of special machinery, and the designation of particular courts of record for the making of declarations of Spanish citizenship has, however, been done by the United States authorities, *ex gratia*, in order to facilitate the resident Spaniards in the exercise of their treaty right, and it has been done in both Cuba and Porto Rico at such time and in such manner as to afford the fullest opportunity therefor. There is not now, nor has there been since last July, the least difficulty in the way of every Spaniard in Cuba going at his leisure and convenience, to one of the offices designated, and making his declaration. Indeed, considering the comparatively small proportion which the natives of the Peninsula residing in that island bear to the total native insular population, the throwing open of the *alcaldias* of every town and hamlet for the purposes of the permitted declaration, instead of limiting the registration to courts of record, may be deemed a particularly considerate favor. It avoids even a short journey by a declarant to the nearest court town, and furnishes him with the desired facility almost at his door. In the much more compact and evenly settled island of Porto Rico the municipal courts

have been in like manner designated and open since September last. When the process has thus been made so simple and convenient for the persons interested, there seems to be no occasion whatever for giving more time in Cuba and Porto Rico to do a thing for the doing of which there is already abundant time. It may rationally be assumed that the real purpose of allowing a full year for the doing of an act which in itself requires but a few minutes, or, at most, a few hours, is not that a year is required to do the act, but that a year is allowed within which to acquire information and to consider and determine whether the act shall be done or not. For this purpose a full year will have been enjoyed in Cuba and Porto Rico on the 11th of April next—that is, counting from the date of the exchange of ratifications of the treaty of peace.

As regards the Philippine Islands, however, the Secretary of War thinks that there is in that quarter a different state of affairs, which may properly be taken into account, and that it would be but just and fair to extend the period allowed by the treaty, unless it shall prove that before the 11th of April, 1900, all the peninsular Spaniards, residents in those islands, have, in fact, had a full opportunity to make the optional declaration for which the treaty allows. In this opinion I cordially concur.

I shall, therefore, under the President's direction, be pleased to confer with you at your convenience, with a view to agreeing upon and signing a supplementary convention or protocol extending, within the Philippine Islands, for six months from April 11, 1900, the opportunity for registration provided by article 9 of the treaty of peace. It will be necessary to give the agreement a form no less authoritative and binding than the treaty which it amends in so important a particular.

Accept, etc.,

JOHN HAY.

## SWEDEN AND NORWAY.

### INSPECTION CERTIFICATES FOR MEATS IMPORTED INTO SWEDEN AND NORWAY.

*Mr. Hay to Mr. Thomas.*

No. 51.]

DEPARTMENT OF STATE,  
*Washington, March 27, 1899.*

SIR: I inclose copy of a letter from the Secretary of Agriculture, stating that he had been advised that either the Norwegian health department or that of Christiania would execute a much more rigid control of imported beef, pork, sausage, etc., than heretofore, and would require all certificates of inspection signed by the United States Government inspectors to be identified and certified by the Norwegian consul.

You will make appropriate representations in the line suggested by the Secretary of Agriculture, doing so by corresponding with the consul at Christiania, should the regulations be found to have been made by the local municipality.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Wilson to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D. C., March 23, 1899.*

SIR: I am informed by Messrs. Swift & Co., of Chicago, that their representative at Christiania, Norway, informs them that after March 16, 1899, the health department (presumably of Christiania) will execute a much more rigid control of imported beef, pork, sausage, etc., than heretofore, and that it will be necessary for all certificates of inspection signed by Government inspectors to be identified and certified by the Norwegian consul. This representative of Messrs. Swift & Co. requests that the inspectors forward their signatures, with a certificate that they are authorized inspectors, and that this will be placed on file with the health department for identification of the certificates, and that, this being done, it will not be necessary to have each certificate certified by the consul.

Will you kindly request the American minister, or, if more convenient, the consul at Christiania, to look into this matter and see if any attempt is being made in Norway to discredit the certificates issued by this Government of the inspection of meat products.

This Department takes the ground that these certificates are Government certificates; that they bear the signature of the Secretary of Agriculture, and that the signature of the acting inspector at each place is countersigned for the protection of this Department and not for the information of foreign governments. It is inconsistent with the dignity of this Government to permit any questioning of these certificates or to assist in any plan of such governments to demand identification of the signatures of the inspectors. These certificates, as Government certificates, should be accepted without question.

Further, the plan of identifying the signatures of the inspectors at various points is entirely impracticable, because these inspectors are changed from place to place;



they are often assigned to other duties, and frequently their connection with the service is severed; so that an effort to verify certificates from the signature of the inspectors would lead to much delay and annoyance to the trade.

I presume this is an order of the local board of health at Christiania, and that an explanation made by the United States consul or the minister would be sufficient to correct it and to secure the acceptance of our goods without any certificate of the consul that the certificate of the American Government is properly issued.

I have, etc.,

JAMES WILSON, *Secretary.*

*Mr. Hay to Mr. Thomas.*

No. 54.]

DEPARTMENT OF STATE,  
*Washington, May 18, 1899.*

SIR: Referring to the Department's No. 53,<sup>1</sup> of the 5th instant, I inclose copy of a dispatch from our consul at Christiania and of a letter from the Secretary of Agriculture relative to the new Norwegian rules affecting meat exports from the United States.

You will endeavor to have the certificates and meat-inspection stamps of this Government accepted without the required authentication by a Swedish-Norwegian consul at the port of shipment. This Government does not understand the necessity for the consular authentication, nor perceive what additional security is given to the consumer thereby.

It, of course, does not claim that the inspected meat will keep indefinitely; the inspection simply determines that the animals are healthy at the time of slaughter.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

*Mr. Bordewich to Mr. Hill.*

No. 51.]

CONSULATE OF THE UNITED STATES,  
*Christiania, April 14, 1899.*

SIR: Inclosed I have the honor to transmit a circular which of late has been issued by the Christiania board of health and sent to all the dealers and importers of animal foods. Translation follows the circular. I again draw your attention to this matter for the reason that one of the importers of American meats came to the consulate yesterday and made complaint, asking for my intervention. It appears that the man had just received from America a shipment of "butts" of pork, accompanied by the regular American certificate of inspection, in conformity with the requirements of the act of Congress approved March 3, 1891. The goods were in perfect condition; still he had much difficulty in getting them passed, as the authorities refused to accept the American certificate.

I have seen the president of the board of health, Mr. G. E. Bentzen, and he informs me that under new rules adopted the American inspection certificates should be authenticated by Swedish-Norwegian consul in port of shipment. Mr. Bentzen intimated, however, that this authentication might be dispensed with if the American mode of inspection was explained and found satisfactory.

For this reason I have already, in dispatch No. 50, requested that two copies of the act of March 3, 1891, be sent to me, as it will show the requirements. When received I will again see the inspection board and come to a clear understanding, but at the same time it might expedite matters if the Swedish-Norwegian consul-general at Washington was requested to interfere.

The main reason for the trouble here at this time is, that last winter a lot of American horse meat arrived in a very bad condition and was condemned. It was not inspected in America, however, as near as I can learn, and I was not notified at the time.

In my opinion, all American meats and pork for export should be accompanied with inspection certificates, and arrangements made, as far as possible, that these

<sup>1</sup> Not printed.

certificates are taken as ample proof that the respective goods are wholesome human food.

I have, etc.,

HENRY BORDEWICH,  
*United States Consul, Christiania.*

[Subinclosure.—Translation.]

*From Christiania Board of Health.*

Under provision of the rules for the protection of the public health, approved by royal resolution of December 14 last year, this board may, from March 19 last, forbid the sale of foods prepared outside the city, in the composition of which enters smaller pieces of meat, pork, intestines of domestic animals, or blood, unless it is made manifest to the board, either by certificate from Norwegian authorities in other ports or in some other reliable manner, that such food was prepared in such a manner and from such material that it is not injurious to health.

We take the permission to inform the honorable firm of this rule, and would request that with each shipment of such food from other places to this city care is taken that the required guaranty is furnished, as a rule, by certificate from one (by proper authority appointed) veterinary surgeon, to the effect that the food in question is prepared in such manner and from such material that it is not injurious to health.

In cases where the foods are imported from abroad, the certificate of a veterinary surgeon must be accompanied by a certificate from the police authorities at the place of export, or by Norwegian consul, if one is found in the place.

Christiania Board of Health, February 1, 1899.

G. E. BENTZEN,  
JOSEF JACOBSEN.

[Inclosure 2.]

*Mr. Brigham to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D. C., May 13, 1899.*

SIR: I have the honor to acknowledge, with thanks, receipt of your letter of the 4th instant, inclosing for my information a copy of a dispatch from the consul at Christiania, Norway, No. 51, April 14, 1899, with inclosure, concerning new rules adopted there for inspection of animal food.

I would respectfully request that, if deemed advisable by your Department, the subject-matter of these regulations be taken up, either with the Swedish-Norwegian consul-general at Washington, as suggested by Mr. Bordewich, or directly with the Government of those countries, with a view of securing the acceptance of the certificates and meat inspection stamps of this Government without authentication by the Swedish-Norwegian consul at port of shipment. This Department does not understand the necessity for authentication of Government certificate. The alleged reason for the new regulations, that a shipment of horse meat arrived in bad condition, certainly does not warrant the proposed measure, nor would that measure be sufficient to prevent other meats in bad condition from arriving at such distant ports. Of course, no inspection can guarantee that meat will not deteriorate and decompose if it is kept under improper conditions. The inspection is to determine that the animals are healthful at the time of slaughter—not that the meat will keep indefinitely.

Very respectfully,

J. H. BRIGHAM, *Acting Secretary.*

*Mr. Thomas to Mr. Hay.*

No. 85.]

LEGATION OF THE UNITED STATES,  
*Stockholm, May 30, 1899.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 54, of May 18, relative to the new rules of the board of health of

Christiania, Norway, affecting the meat exports from the United States, and to inform you that I have addressed a note upon the subject to the acting minister for foreign affairs, a copy of which is inclosed herewith, requesting that the certificates and meat-inspection stamps of the Government of the United States may be accepted without the required authentication by a Swedish-Norwegian consul at the port of shipment.

I also called this afternoon at the foreign office, and in a full and free conversation with the chief secretary earnestly supported the view of our Government.

I have, etc.,

W. W. THOMAS, Jr.

[Inclosure.]

*Mr. Thomas to Baron Akerhielm.*

LEGATION OF THE UNITED STATES,  
*Stockholm, May 30, 1899.*

SIR: Referring to my note of April 12 last, I have the honor to call your excellency's attention to the new rules of the board of health of Christiania promulgated February 1 last, affecting meat exports from the United States.

I am informed that under these rules the president of the board of health, Mr. G. E. Bentzen, takes the ground that the inspection certificates of the United States Government should be authenticated by a Swedish-Norwegian consul at the port of shipment.

In compliance with instructions from the Secretary of State, I have the honor to request that the certificates and meat-inspection stamps of the Government of the United States may be accepted without the required authentication by a Swedish-Norwegian consul.

The Government of the United States does not understand the necessity for the consular authentication nor perceive what additional security is given to the consumer thereby. It, of course, does not claim that the inspected meat will keep indefinitely. The inspection simply determines that the animals are healthy at the time of slaughter.

I beg, etc.,

W. W. THOMAS, Jr.

*Mr. Hay to Mr. Thomas.*

No. 55.]

DEPARTMENT OF STATE,  
*Washington, June 5, 1899.*

SIR: Referring to the Department's No. 53 of the 5th and No. 54 of the 18th ultimo, I inclose copy of a dispatch from our consul at Christiania, stating that the regulations for the inspection of imported meats have been modified.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Bordewich to Mr. Hill.*

No. 55.]

CONSULATE OF THE UNITED STATES,  
*Christiania, May 6, 1899.*

SIR: Since my last report on the subject, in dispatch No. 51 of date April 14, the Christiania board of health and meat inspector have modified their previous stringent rules relating to the inspection of imported meats, as will be observed from the inclosed published notice, which I send to you with translation.

In an interview which I had with Mr. Bentzen, president of the board, one of the first days in April, I explained to him the careful method employed by American meat inspectors, and I also let him have the use of the last year's book of the

Department of Agriculture, from which much could be learned on the subject. As the rules were changed in our favor soon after, my explanation must have had the desired effect.

I should like to get a copy of the act of Congress of March 3, 1891, relating to meat inspection, as it may become of use later.

Of this wrote in dispatch 51 also.

I may also at this time add that the importation of horse meat is not prohibited in Norway, but it should be sold for what it really is, and it should be subjected to examination like other meats.

I beg, etc.,

HENRY BORDEWICH,  
*United States Consul.*

[Subinclosure.—Translation.]

*Official notice.—Notice from the board of health.*

In accordance with the provisions of the approved regulations adopted by the Christiania board of health, the board has passed the following resolution:

With every shipment of articles of food which is sent to this city, and in the composition of which enters meat, pork, blood, or interior parts of domestic animals, which has been divided in smaller pieces, it is required that the board be furnished with the necessary proof, as a rule by certificate from a public veterinarian, showing that the food in question is prepared in such manner and from such material that the same is not injurious to the public health.

In cases where such articles of food are imported from abroad, it is required that the veterinarian's certificate is accompanied by authentication from the police officers (in the place) or from a Norwegian consul, if any such is found in the place. This resolution of the board includes all meat and pork of domestic animals, whether the same is salted, smoked, cooked, or fixed in other manner, provided the same is divided in smaller parts than one-fourth of a whole animal; also tongues, sausage casings, and other parts of and for sausages, or similar of meat, pork, blood, or internal parts of animals prepared articles of food. Therefrom, however, for the time being excepted, pork in the form of hams, shoulders, or sides, when these are salted or smoked. Therefrom also excepted, corned beef or other canned goods packed in tins, provided the same, as far as the United States is concerned, shall be accompanied with inspection certificate from a duly appointed inspector, or his subordinates, under the United States Department of Agriculture, or else will attest from others whom the board may favor with their special confidence.

Christiania Board of Health, April 21, 1899.

G. E. BENTZEN.  
H. J. BERNER.

*Mr. Hay to Mr. Thomas.*

No. 56.]

DEPARTMENT OF STATE,  
*Washington, June 7, 1899.*

SIR: Referring to the Department's No. 53 of the 5th, 54 of the 18th ultimo, and 55 of the 5th instant, relative to the subject of the importation of American meats into Norway, I inclose for your information copy of a dispatch from our consul at Christiania transmitting an article from the *Morganbladet*, of that city, relating to the matter.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Bordewich to Mr. Hill.*

No. 53.]

CONSULATE OF THE UNITED STATES,  
*Christiania, May 1, 1899.*

SIR: Inclosed I take the liberty to send cutting and translation of an article published in the *Christiania daily paper*, *Morganbladet*, April 26, 1899, which will explain itself.

The old cry about trichinæ in American pork has just been ably answered in another Christiania paper by one of the local importers, but this last accusation is more difficult to meet, and I fear it will seriously injure our trade.

I have sent the New York Tribune a copy of the article in question and translation like the inclosed, with some comments.

As I am earnestly interested in the promotion of American trade in this country, I deplore the present state of affairs and deem it my duty to keep the Department posted, so that the evil may be remedied in some way, if it possibly can be done. It is a pity that the many legitimate dealers in honest goods shall have their business injured by a few deshonest importers.

I would also respectfully refer to my dispatches Nos. 50 and 51 on this same subject.

I have, etc.,

HENRY BORDEWICH,  
*United States Consul.*

[Subinclosure.—Translation of article in the Christiania paper *Morgenbladet* of date April 23, 1899.]

#### AMERICAN HORSE MEAT TO NORWAY FORBIDDEN AS FOOD IN AMERICA.

As will be known from a notice in our paper the proper authorities have resolved to enforce a sharper control also of imported meats, that are divided in smaller pieces than one-fourth of an animal.

How opportune such rules are, regarding the import from abroad, will appear from the following article appearing in the New York Herald March 11 this year:

"Pedler David Linairo, of No. 282 Broom street, was last Wednesday in court, accused of cruelty to a horse, and was fined \$200 and given sixty days in jail. He was arrested while trying to bring a sick horse, which had broken one leg and was covered with sores and scratches, to a slaughterhouse in New Jersey, where it under the laws of evolution should become sausage.

"Herald made closer investigation and found that there were places outside of Jersey City, where horses are butchered in the same manner as cattle, and where their meat is prepared for human food. The people engaged in this traffic make no secret of it. These establishments are known in the neighborhood as horse factories and the street car drivers can point them out. They are furnished like common slaughterhouses with beams overhead on which the carcasses are hung after the usual treatment. There are also large caldrons for boiling the meat, machines for sausage making, apparatus for preparation of the hides and for cutting, salting, and packing.

"While there is in New York a law that prohibits the butchering of horses for human food in the city, and that also prohibits it for other purposes, except under license obtained from the board of health, it appears that no such prohibition exists on the other side of the Hudson.

"When the reporter of the paper saw Mr. Cornelius J. Rooney, secretary in the Hudson County Board of Health, he admitted that there were places in the county, where horses were butchered for human food. 'There is no law forbidding it,' he said, 'And all we can do is to prevent the business doing injury to anyone. The people employed in the slaughter shop insist that the horse meat is not sold here, but that it is exported to Norway and France.'

"The Herald reporter objected to this and stated that it was demonstrated in the court last Wednesday, that sausages of horse meat were sold to credulous people in this city, Brooklyn and Jersey City.

"Our inspector" answered Mr. Rooney, 'Examined lately one of these horse factories. The horses that were to be butchered, were not deceased, but they were old and totally worn-out, and the inspector said that death would be the greatest boon that could be shown them. They also observed some of the pickled, and in boxes packed meat, which was addressed to a firm in Christiania, Norway, to be exported on an ocean steamer. I do not believe any of this meat is sold here. If it does happen it is done secretly and in such a manner that the inspectors are unable to lay hold of the guilty parties.'

"Herald reporter next made a trip to the horse factories, which are located on the flats between New York and Jersey City, and saw one of them in operation, the building was a large, barn-like structure, which the street car conductor pointed out to him.

"There is one of the horse factories,' said the conductor, 'And there are two others farther out. Everybody knows them, and everybody that has an old played-out nag, which is of no account, takes it out here and sells it for a few dollars.'

"In the horse factory the reporter found a man engaged with a horse that had

just been killed. He stated that the whole production from the establishment was exported.

“‘Where to?’ asked the reporter.

“‘To Norway,’ answered he, ‘people like it over there.’

“‘How much is paid for a horse?’

“‘Well, horses come high now, we pay as much as \$5 a piece, but then the hide and hoofs is worth that much, so the meat is cheap profit.’

“‘How many do you kill?’

“‘Fifty to sixty per week.’

“‘Do you eat horse meat yourself?’

“‘No; I do not like it, but many do.’

“‘Where are these “many?”’

“‘In Norway,’ he answered, as he with a knowing smile resumed his work.”

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*Mr. Hay to Mr. Thomas.*

No. 58.]

DEPARTMENT OF STATE,

*Washington, June 15, 1899.*

SIR: I have to acknowledge the receipt of your No. 85, of the 30th ultimo, inclosing copy of your note to the foreign office, urging the acceptance by the Government of Norway of the United States certificates and meat-inspection stamps without the requirement of their authentication by a consular officer of Sweden and Norway.

Copy of your dispatch has been forwarded to the Secretary of Agriculture.

I inclose for your information copy of a letter from that officer relative to the exportation of horse meat from the United States.

I am, etc.

JOHN HAY.

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[Inclosure.]

*Mr. Wilson to Mr. Hay.*

DEPARTMENT OF AGRICULTURE,

*Washington, June 7, 1899.*

SIR: I have the honor to acknowledge, with thanks, receipt of your letter of the 2d instant inclosing a copy of a dispatch from the consul at Christiania, Norway, transmitting a translation of a newspaper article in regard to the alleged exportation of horse meat to Norway. The consul deploras the present state of affairs and deems it his duty to keep the Department posted, so that the evil can be remedied in some way if it possibly can be done.

In reference to this it may be said that there is a legitimate demand for horse flesh in certain European countries, and that such meat from healthy horses is just as wholesome an article of food as the meat from any other animals. Congress has recognized this fact and has granted to establishments slaughtering horses the same privilege of inspection which is given for other kinds of meat. It should be clearly stated, however, that all such meat inspected by this Department is plainly marked to show that it is horse flesh, and that in case it is exported it must be shipped with marks which clearly show its origin and character.

This Department would make no objection to regulations on the part of Norway requiring that all horse flesh imported into that country should be inspected and bear the official inspection marks; but it does object, and with reason, to discriminations against this product from America when similar goods are imported from other parts of the world which have been neither inspected nor marked to identify the packages as containing horse flesh.

In this connection I may state my opinion that there has not been a very large quantity of horse meat exported from this country. The single establishment at which inspection has been instituted made, I believe, but one shipment to Europe—certainly not more than two—and the business has been suspended. I doubt if

the small establishments about Jersey City, which are referred to in the article inclosed by Mr. Bordewich, export much of their product. The indications are that it is sold locally to the purchasers of inferior meats in the large cities of this country.

However, Norway or any other country can protect itself against unwholesome meat by requiring, first, that all horse flesh shall be marked to show what it is, and secondly, that it shall have been officially inspected at the time of slaughter.

Very respectfully,

JAMES WILSON, *Secretary.*

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*Mr. Thomas to Mr. Hay.*

No. 88.]

LEGATION OF THE UNITED STATES,  
*Stockholm, June 20, 1899.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 56, of June 7, relative to the subject of the importation of American meats into Norway.

I am giving this subject my earnest attention and having frequent friendly and informal conferences with the foreign office thereon, which I hope will result in the removal of any restrictions upon the importation of American meat products into Sweden and Norway to which we can reasonably object.

I have, etc.,

W. W. THOMAS, Jr.

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*Mr. Thomas to Mr. Hay.*

No. 91.]

LEGATION OF THE UNITED STATES,  
*Stockholm, June 27, 1899.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 58, of June 15, inclosing copy of a letter from the Secretary of Agriculture relative to the exportation of horse meat from the United States to Norway.

Referring also to your instructions No. 51, of March 27, No. 53, of April 5, No. 54, of April 18, and No. 55, of June 5, and the inclosures therein transmitted, especially the dispatches of our consul at Christiania, disclosing the unsatisfactory restrictions and regulations placed upon the importation of American meat products into Norway, it suggests itself to me that it would be advantageous to have a personal conference with Consul Bordewich on the subject.

I will endeavor, therefore, to make such arrangements as will enable me to visit him for that purpose at an early day.

I have, etc.,

W. W. THOMAS, Jr.

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*Mr. Adee to Mr. Thomas.*

No. 64.]

DEPARTMENT OF STATE,  
*Washington, August 5, 1899.*

SIR: I inclose for your information a copy of a dispatch from the consul of the United States at Gothenburg under date of July 7, 1899, transmitting a copy of the law of Sweden governing the importation of horse meat into that country, and recommending to exporters of such meat in this country a careful observance of the regulations.

A copy of this dispatch was sent to the Secretary of Agriculture,

and under date of August 3, 1899, the Acting Secretary, after acknowledging the receipt of the dispatch, observes as follows:

I note in this connection the consul's statement that objections have also been raised to the word "inspector" on the Department of Agriculture certificate of inspection. the customs authorities claiming that this does not satisfy them that the inspector is a veterinarian, and as such competent to judge as to the condition of the meat and to sign the certificate.

In my opinion this Government should not admit that such an objection is justified, since the fact that an inspector is appointed by this Department and assigned to the duty of issuing certificates should be sufficient guaranty that he is competent to do this class of work.

As a matter of fact, all the meat inspectors of this Department are veterinarians, but we should not admit the right of any foreign government to question the qualifications of our inspectors.

As it is not believed that anything material will be gained by arguing the question with the Swedish authorities, you are authorized to say that the matter has been presented to your Government in the light of the consul's dispatch, and that you are now in receipt of information, through this Department, from the Secretary of Agriculture, whose Department is charged with the appointment of such inspectors, that, as a matter of fact, all such inspectors are veterinarians. It may be added that the inspection is thorough and complete under the laws of the United States and the regulations of the Secretary of Agriculture.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

*Mr. Bergh to Mr. Hill.*

CONSULATE OF THE UNITED STATES,  
*Göthenberg, Sweden, July 11, 1899.*

SIR: Referring to reports from this office of February 9, 1899, and January 23, 1899, concerning the importation of horse meat, I have the honor to inclose two copies of the law governing the importation of horse meat into Sweden; also translation of the same.

I have had opportunity to learn that the customs officials are trying hard to effectually bar out American horse meat, and I therefore will suggest that the exporters follow the regulations prescribed by the Swedish Government to the letter. The barrels must be sealed carefully, so that opening on the way is impossible without detection. The importation of horse meat in cans is entirely out of the question under the present circumstances, as the veterinary insists on examining every piece of meat, and consequently has to open each can. Nothing but the best of meat will be accepted by the authorities; if any second or third class meat arrives it will be destroyed, causing loss to the exporter. Objections have also been raised to the word "inspector" on the Department of Agriculture certificate of inspection. The customs authorities claim that this does not satisfy them that the "inspector" is a veterinary, and as such competent to judge as to the condition of the meat and to sign the certificate.

I have, etc.,

ROBERT S. S. BERGH, *Consul.*

[Subinclosure.]

On the 4th day of February, 1898, the Swedish Government decided to issue the following regulations concerning the importation of horse meat, which regulations were published in circular No. 7, dated the 25th same month:

[Translation.]

Horse meat which is imported from foreign countries shall be accompanied by certificate from a veterinarian residing in the country of exportation to the effect that the meat is from fully healthy animals; and the veterinarian's competence to



issue such certificate shall be verified by Swedish and Norwegian consul at the place of exportation, or, if none such reside there, by some constituted authority thereof.

PARAGRAPH 2. On the meat, or if it arrives packed up, on the casings, shall be placed in unimpaired condition a mark provided with the signature of the above-mentioned veterinarian, and, furthermore, notations which indicate that the mark bears relation to the same article that is mentioned in the accompanying certificate; and such mark shall, when on the casing, be so placed that thereby is gained reasonable security for, that the casing has not been opened after the mark was put on.

PARAGRAPH 3. Horse meat which is imported into the Kingdom shall, before clearance at customs, at the expense of the owner and at the order of the proper sanitary authorities, be inspected by a legitimate veterinarian in order to ascertain whether or not the same is fit for human food.

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*Mr. Thomas to Mr. Hay.*

No. 100.]

LEGATION OF THE UNITED STATES,  
*Stockholm, August 28, 1899.*

SIR: Referring to instructions of the Department, No. 53 of May 5, No. 54 of May 18, No. 55 of June 5, No. 56 of June 7, and No. 58 of June 15, and to my dispatches, No. 83 of May 15, No. 85 of May 30, No. 88 of June 20, and No. 91 of June 27; also to my notes to the foreign office of April 12 and May 3 last, copies of which are herewith inclosed, all relative to the new Norwegian rules affecting meat exports from the United States, I have the honor now to forward you a copy of a note from the minister for foreign affairs, of August 12, accompanied by a translation thereof; also copy of a letter from the minister of justice and the police of Norway of August 8, with translation, and copy of notice of the board of health of the city of Christiania, dated April 21 last, with translation.

From the six latter inclosures it will be seen that the board of health of Christiania, before making final decision on the question of accepting the certificates and meat-inspection stamps of the Government of the United States without the authentication by a Swedish-Norwegian consul at the port of shipment, desires to know if all the inspectors of the Department of Agriculture are veterinary surgeons; and if this is the case, the board wishes to receive from the Department of Agriculture, through our consul at Christiania, a list "à tenir à jour" of the inspectors in question, accompanied by a facsimile of their signatures.

Furthermore, at the request of the minister of justice and the police of Norway, Count Douglas, desires to be informed by me if all said inspectors are veterinary surgeons, and if such be the case, whether the Department of Agriculture will be disposed to furnish such a list of them as is above requested.

Asking that the information requested by Count Douglas be furnished me,

I have, etc.,

W. W. THOMAS, JR.

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[Inclosure 1.]

*Mr. Thomas to Count Douglas.*

LEGATION OF THE UNITED STATES,  
*Stockholm, April 12, 1899.*

SIR: In compliance with instructions from the Secretary of State, I have the honor to inclose copy of a letter from the Secretary of Agriculture, stating that he

has been advised that either the Norwegian health department or that of Christiania would execute a much more rigid control of imported beef, pork, sausage, etc., than heretofore, and would require all certificates of inspection signed by United States Government inspectors to be identified and certified by the Norwegian consul.

I am also instructed to inquire whether the regulation referred to is one of the Norwegian Government or of the local municipality of Christiania, and further to express the hope that the official certificates of the United States Government inspectors may be accepted without question, as indicated by the Secretary of Agriculture in his letter herewith inclosed.

I beg, etc.,

W. W. THOMAS, Jr.

[Inclosure 2.]

*Mr. Thomas to Count Douglas.*

LEGATION OF THE UNITED STATES,  
*Stockholm, May 30, 1899.*

SIR: Referring to my note of April 12 last, I have the honor to call your excellency's attention to the new rules of the board of health of Christiania, promulgated February 1 last, affecting meat exports from the United States.

I am informed that under these rules the president of the board of health, Mr. G. E. Bentzen, takes the ground that the inspection certificates of the United States Government should be authenticated by a Swedish-Norwegian consul at the port of shipment.

In compliance with instruction from the Secretary of State, I have the honor to request that the certificates and meat-inspection stamps of the Government of the United States may be accepted without the required authentication by a Swedish-Norwegian consul.

The Government of the United States does not understand the necessity for the consular authentication, nor perceive what additional security is given to the consumer thereby. It, of course, does not claim that the inspected meat will keep indefinitely; the inspection simply determines that the animals are healthy at the time of slaughter.

I beg, etc.,

W. W. THOMAS, Jr.

[Inclosure 3.]

*Count Douglas to Mr. Thomas.*

[Translation.]

FOREIGN OFFICE,  
*Stockholm, August 12, 1899.*

MR. MINISTER: By two letters, dated April 12 and May 30 last, you were pleased to address yourself to the intermediacy of this office in order that the certificates and stamps of the Government of the United States for the inspection of meat may be accepted by the sanitary authorities of Christiania without authentication by a consular officer of the United Kingdoms.

The minister of justice and of the police of the said city, to whom this matter has been referred, has just addressed me the letter, with inclosure, herewith inclosed in copy, by which you will be pleased to see that the health commission of Christiania, before taking a final decision with regard to the authentication, desires to know if all the inspectors named by the Department of Agriculture at Washington are veterinary surgeons. In this case the commission desires to obtain from the Department of Agriculture, through the United States consul at Christiania, a list "à tenir à jour" of the said inspectors, accompanied, if possible, by a facsimile of their signatures.

At the request of the minister of justice and of the police, I therefore request you to be pleased to inform me if all the inspectors in the United States are veterinary surgeons, and in that case if the Department of Agriculture would be disposed to furnish the said list.

Be pleased to accept, etc.,

DOUGLAS.

[Subinclosure 1.—Translation.]

*[From the Department of Justice and Police of the Royal Norwegian Government.]*

On April 21 and June 1 your excellency sent copies of representations of the previous 12th of April and 30th of May, respectively, from the American minister at Stockholm, wherein it is requested, in consequence of a regulation made by the health commission of Christiania concerning the control of imported meat, which requires that, if possible, the certificates of the inspectors named by the American Department of Agriculture be authenticated by a Norwegian consul, that the said regulations be so changed that these certificates be accepted without authentication.

In consequence thereof the Department, after having obtained the decision of the health commission of Christiania, has the honor to communicate the following:

The said regulation of the health commission is made by strength of an appendix, approved by royal resolution, to the health rules of Christiania, and concerns all meat products of a certain kind imported into the city from other cities (in this country or from other countries), as will be further seen in the inclosed copy of the regulation in force. For such food as is mentioned in the regulation the certificate of a veterinary surgeon named by public authority is, as a rule, required to show that the said food is prepared in such a manner and of such material that it is not injurious to health, and this certificate should, besides, if the food is imported from a foreign country, be accompanied by an authentication of the police authority of the place of export, or of a Norwegian consul if one is stationed at said place, to the effect that the inspector is a public veterinary surgeon.

Before the health commission gives a final decision, taking consideration of the remarks from the American minister, it considers it necessary to obtain more information as to whether all the inspectors named by the American Department of Agriculture are veterinary surgeons. If such is the case, the health commission wishes to obtain from the Department of Agriculture, through the American consul at Christiania, a list constantly kept "à jour" of the said inspectors, and also, if possible, facsimile of their signatures.

Referring to what is here set forth, the department begs, before anything else is decided, to request your excellency to seek to obtain from the American authorities the information as to whether all the inspectors in question are veterinary surgeons, and in such case to obtain a list of the same inspectors, which list the health commission wishes to possess.

CHRISTIANIA, August 8, 1899.

EINAR LÖCHEN.  
GEORG JOHANNESSEN.

His Excellency the MINISTER FOR FOREIGN AFFAIRS.

[Subinclosure 2.—Translation.]

*Report from the health commission.*

With regard to the rules approved in Christiania for health, the health commission has decided:

For every consignment, imported from without the city, of manufactured food which consists of meat in small particles, pork, blood, or intestines of domestic animals, there must be obtained, as a rule by means of the attest of a veterinary surgeon named by public authority, sufficient proof for the health commission that the food is prepared in such a manner and of such material that it is not injurious for health.

If the food is imported from foreign countries the veterinary surgeon's attest must be accompanied by an authentication by the police of the place of export or by a Norwegian consul, if there is one at the place.

The regulation of the health commission concerns—

All meat of domestic animals and pork, when it is either salted, smoked, cooked, or prepared in any other manner, when it is carved or cut in pieces smaller than one-fourth of the animal's size; tongues, intestines, and other entrails in sausage form, or similar food prepared from meat, pork, blood, or intestines, with the exception, however, of pork in the form of hams, bacon, or sides when these are salted, smoked, and also corned beef or other food hermetically packed in tin packing, when the packing for the same is furnished with the registered certificate of the inspector of export of the United States of America, or his secretary in the

United States Department of Agriculture, or with the attest of others whom the health commission may especially approve.

Health commission of Christiania, April 21, 1899.

G. E. BENTZEN.  
HJ. BERNER.

Correctly copied witnesses.

G. E. BENTZEN.

*Mr. Thomas to Mr. Hay.*

No. 102.]

LEGATION OF THE UNITED STATES,  
*Stockholm, September 5, 1899.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 64, of August 5, inclosing copy of a dispatch from our consul at Gottenborg of July 7 last in reference to the importation of American horse meat into Sweden.

In compliance with your instruction I have addressed a note to the minister for foreign affairs on the subject, a copy of which is herewith inclosed, in which I quote that portion of the consul's dispatch stating the objection of the Swedish customs officers to the word "inspector" on the certificate of inspection, that this word does not satisfy them that the inspector is a veterinarian, and informing the minister that in the light of the consul's dispatch I am in receipt of information through the Department of State, from the Secretary of Agriculture, whose Department is charged with the appointment of such inspectors, that, in fact, all such inspectors are veterinarians, and adding that the inspection is thorough and complete under the laws of the United States and the regulations of the Secretary of Agriculture.

I called personally to-day at the foreign office and read and delivered the note to the chief secretary, and in conference with him thereon stated that I hoped and expected that this information from the Secretary of Agriculture, thus communicated, would be conclusive in the premises.

I have, etc.,

W. W. THOMAS, Jr.

[Inclosure.]

*Mr. Thomas to Count Wachtmeister.*

LEGATION OF THE UNITED STATES,  
*Stockholm, September 4, 1899.*

SIR: I have the honor to inform your excellency that the United States consul at Gottenborg has called the attention of the Government of the United States to the matter of the importation of American horse meat into Sweden, and the regulations of the Swedish Government concerning the same.

In his dispatch the consul observes as follows:

"Objections have also been raised to the word 'inspector' on the Department of Agriculture certificate of inspection. The customs authorities claim that this does not satisfy them that the inspector is a veterinarian and, as such, competent to judge as to the condition of the meat and to sign the certificate."

In the light of this dispatch, I am now in receipt of information, through the Department of State, from the Secretary of Agriculture, whose Department is charged with the appointment of such inspectors, that, as a matter of fact, all such inspectors are veterinarians. I am instructed to add that the inspection is thorough and complete under the laws of the United States and the regulations of the Secretary of Agriculture.

I beg, etc.,

W. W. THOMAS, Jr.

*Mr. Thomas to Mr. Hay.*

No. 107.]

LEGATION OF THE UNITED STATES,  
*Stockholm, October 3, 1899.*

SIR: Referring to your instruction No. 64, of August 5, and my dispatch No. 102, of September 5, last, in reference to the importation of American horse meat into Sweden, I have the honor to inform you that I have just received a note from the minister for foreign affairs under date of October 2, a copy of which, accompanied by a translation, is herewith inclosed, in which Count Douglas states that the minister of the interior, to whom my communication on the subject, a copy of which was inclosed in my No. 102, had been referred, had advised him that he had not failed to take the necessary measures to inform the competent authorities of the facts set forth in my note, viz, that the certificates of inspection of horse meat exported from the United States are signed by veterinarians, and that the inspection is governed by the laws of the United States.

I have, etc.,

W. W. THOMAS, JR.

[Inclosure.—Translation.]

*Count Douglas to Mr. Thomas.*FOREIGN OFFICE,  
*Stockholm, October 2, 1899.*

MR. MINISTER: By a letter dated September 4, last, you have been pleased to inform this office that the certificates of inspection of horse meat exported from the United States of America are signed by veterinarians, and that the inspection is governed by the laws of the United States.

The minister of the interior, to whom your communication has been referred, has just advised me that he has not failed to take the necessary measures to inform the competent authorities of the facts.

Please accept, etc.,

DOUGLAS.

*Mr. Hill to Mr. Thomas.*

No. 66.]

DEPARTMENT OF STATE,  
*Washington, October 14, 1899.*

SIR: Referring to your Nos. 100 of August 28 and 102 of the 5th ultimo, I inclose copy of a letter from the Acting Secretary of Agriculture stating that, for reasons specified by him, he thinks it will not be practicable for this Government to furnish the Government of Sweden and Norway with lists of United States meat inspectors, accompanied by facsimiles of their signatures.

This Department concurs in Mr. Brigham's views, of which you will make such use as you may find appropriate and deem advisable.

I am, etc.,

DAVID J. HILL.

[Inclosure.]

*Mr. Brigham to Mr. Hay.*DEPARTMENT OF AGRICULTURE, *October 5, 1899.*

SIR: I have the honor to acknowledge, with thanks, the receipt of your letter of the 23d ultimo, inclosing for the information of this Department copies of two

dispatches, Nos. 100 and 102, from the United States minister at Stockholm relative to the exportation of meat from the United States to Norway.

I note in the minister's dispatch of August 28, 1899, No. 100, that the board of health of Christiania, before making a final decision on the question of accepting the certificates and meat inspection stamps of the Government or the United States without authentication by the Swedish-Norwegian consul at the port of shipment, desires to know if all the inspectors of the Department of Agriculture are veterinary surgeons, and if this is the case, the board wishes to receive from the Department, through our consul at Christiania, a list "à tenir à jour" of the inspectors in question, accompanied by a facsimile of their signatures.

This Department is pleased to observe that the minister has informed the minister of foreign affairs that the meat inspectors of this Department are all veterinarians, and that the inspection is thorough and complete under the laws of the United States and the regulations of the Secretary of Agriculture.

As to the second point, this Department is not disposed to furnish a list of inspectors accompanied by a facsimile of their signatures for the use of the board of health of Christiania for the authentication of the certificates, first, because these certificates are issued by this Government and bear the signature of the Secretary of Agriculture, and are only countersigned by the inspectors. There is no reason to suppose that these certificates are counterfeited or are likely to be, and it appears to this Department that they should be accepted without the minute investigation implied in this request of the board of health of Christiania. In other words, it appears to be a reflection upon this Government to make a request which indicates a suspicion that meat is being sent from the United States under Government certificates which has not been properly inspected or which is covered by a false certification. I leave it to your Department, of course, to decide to what extent it is advisable to try to impress this idea upon the Swedish-Norwegian Government.

The second objection to furnishing such a list of inspectors is that the Department has now about 200 of such officials, and it would be no small undertaking to get up a list with a facsimile of their signatures attached, especially if this should be considered a precedent by other countries and such a list be frequently asked for. If the local boards of health of every foreign city should decide that they must be supplied with such a list it would mean a great deal of unnecessary trouble and expense.

Moreover, the force of inspectors is naturally frequently changed. Not only are the men shifted around from one position to another, according to the exigencies of the service, but some are dropping out and others are being added. This would make it necessary to send a weekly bulletin to such foreign authorities as wished to verify the inspectors' signatures.

Further, it appears to this Department that there would frequently be question as to whether the signature of any inspector corresponded sufficiently with the facsimile sent abroad to be received as the signature of the same man. This would at least furnish an additional excuse, where it was desired, for holding up American meats for a sufficient time to have experts compare the signatures, causing great embarrassment and loss to shippers.

The more this request is considered the more it appears to be unusual in its character, unnecessary, and undesirable to comply with.

I have, etc.,

J. H. BRIGHAM, *Acting Secretary.*

*Mr. Thomas to Mr. Hay.*

No. 119.]

LEGATION OF THE UNITED STATES,  
Stockholm, October 28, 1899.

SIR: I have the honor to acknowledge the receipt this day of instruction No. 66, of the 14th instant, inclosing a letter from the Acting Secretary of Agriculture, relating to the importation of American meats into Norway.

I at once addressed a note to the acting minister for foreign affairs, a copy of which is inclosed herewith, repeating the assurance of the Secretary of Agriculture that all the United States meat inspectors

are veterinarians, but stating that the Secretary deemed it would not be practicable to furnish lists of such inspectors to be kept up to date, accompanied by facsimiles of their signatures, as desired by the board of health of Christiania.

As reasons for this decision, I repeated in substance a portion of those given by Mr. Brigham, to wit, that there are now about 200 of such officials, and not only are they shifted about from one position to another, but some are continually being dropped out and others added. This would make it necessary to send a weekly bulletin to such foreign authorities as wished to verify the inspectors' signatures, thus entailing a large and, as it is believed, unnecessary amount of labor and expense.

I called this afternoon at the foreign office, read my note to the chief secretary, and in an extended conference on the subject, earnestly brought forward the remaining reasons adduced by Mr. Brigham.

I trust that the result may be that the board of health of Christiania will waive its request to be furnished with lists of the inspectors in question and will accept the certificates and meat-inspection stamps of the Government of the United States without the authentication of a Swedish-Norwegian consul at the port of shipment.

I have, etc.,

W. W. THOMAS, Jr.

[Inclosure.]

Mr. Thomas to Mr. Bostrom.

LEGATION OF THE UNITED STATES,  
Stockholm, October 28, 1899.

SIR: I have the honor to call your excellency's attention to the note of Count Douglas to me of August 12 last, in which it is stated that the board of health of Christiania, before making a final decision on the question of accepting the certificates and meat-inspection stamps of the Government of the United States, without the authentication by a Swedish-Norwegian consul at the port of shipment, desires to know if all the inspectors of the Department of Agriculture are veterinary surgeons; and, if this is the case, the board wishes to receive from the Department of Agriculture, through our consul at Christiania, a list "a tenir a jour" of the inspectors in question, accompanied by a fac simile of their signatures.

In response to the first request, I beg to advise your excellency that, as already stated in my note to Count Douglas, of September 4 last, I have received information, through the Department of State, from the Secretary of Agriculture, whose Department is charged with the appointment of such inspectors, that, as a matter of fact, all such inspectors are veterinarians. I am instructed to add that the inspection is thorough and complete under the laws of the United States and the regulations of the Secretary of Agriculture.

As to the second request, I am instructed that the Department of Agriculture deems that it will not be practicable to furnish lists of the United States meat inspectors "a tenir a jour," accompanied by facsimiles of their signatures.

Among other reasons for this decision, it may be stated that there are now about 200 of such officials, and not only are they shifted about from one position to another, but some are continually being dropped out and others added. This would make it necessary to send a weekly bulletin to such foreign authorities as wished to verify the inspectors' signatures, thus entailing a large and, as it is believed, unnecessary amount of labor and expense.

Trusting that the above assurances of the Secretary of Agriculture, that all the United States meat inspectors are veterinarians, will be sufficient to cause the certificates and meat-inspection stamps of the Government of the United States to be accepted, not only in the city of Christiania, but everywhere in the United Kingdoms, without the authentication by a consul thereof, I beg, etc.,

W. W. THOMAS, Jr.

*Mr. Hay to Mr. Thomas.*

No. 69.]

DEPARTMENT OF STATE,  
*Washington, November 23, 1899.*

SIR: Referring to Department's instruction No. 64 of August 5 last in reference to the regulations governing the importation into that country of American horseflesh, I have to inclose for your information copy of a dispatch from the consul at Gothenburg, dated October 26, 1899.

This dispatch was communicated to the Secretary of Agriculture, and in a letter dated the 18th instant Secretary Wilson informs me that instructions as to the requirements mentioned have been forwarded to the inspector at the only establishment in this country where inspection for horse meat has been established.

Secretary Wilson calls attention to the fact that the inspection service of this country is a Government service, under his immediate charge, and that Congress has made it the duty of the Secretary of Agriculture to inspect the horse meat prepared for the interstate or foreign trade and to certify to that which originates from horses that are in a sound and healthy condition. Referring to the consul's statement that it would appear that the Swedish officials are doing all in their power to make the importation of horse meat as difficult as possible, he observes that, if the Swedish Government does not desire this kind of meat and should shut it out from all countries alike, no objection could be seen to her action; but to raise objections to the form of the United States stamps and the signature on the certificates and to make unreasonable requirements as to the manner of affixing the stamps, would seem to impose discriminating restrictions that are hardly in accord with that agreeable manner which this Government has endeavored to show in its methods applied to the imports from other countries.

In discussing this subject with the Swedish authorities you need make use of such of these observations only as in your discretion will aid that Government to an understanding of the complete and thorough character of the inspection service of this country.

I am, etc.,

JOHN HAY.

*Mr. Thomas to Mr. Hay.*

No. 130.]

UNITED STATES LEGATION,  
*Stockholm, December 30, 1899.*

SIR: Referring to your instructions No. 64 of August 5 and No. 69 of November 23 last, and my dispatches No. 102 of September 5 and No. 107 of October 3, on the subject of the inspection of American horseflesh imported into Sweden, I have the honor to inform you that, in compliance with your instruction No. 69, I have to-day addressed a note to the minister for foreign affairs, a copy of which is herewith inclosed, calling his excellency's attention to the dispatch of our consul at Gothenburg of October 26, and to the observations of the Secretary of Agriculture thereon, and expressing the hope that, in view of the complete and thorough character of the inspection service of the United States, the stamps, seals, and certificates of the official



United States inspecting veterinarian, as well as his manner of making and affixing the same, may hereafter be deemed sufficient by the custom-house officials of Sweden.

I also called at the foreign office, and in conference with the chief secretary urged verbally and more fully the views expressed in my note.

I have, etc.,

W. W. THOMAS, Jr.

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[Inclosure.]

*Mr. Thomas to Mr. Lagerheim.*

LEGATION OF THE UNITED STATES,  
*Stockholm, December 30, 1899.*

SIR: In compliance with instructions from the Secretary of State, and referring to my note to Count Douglas of September 4 last, and his reply of October 2, I have the honor to call your excellency's attention to copy of a dispatch, inclosed herewith, from the United States consul at Gothenburg to the Department of State, dated October 26, 1899, on the subject of the importation of American horse-flesh into Sweden.

The dispatch was communicated to the Secretary of Agriculture, and, in a letter dated November 18 last, Secretary Wilson informed the Department of State that instructions as to the requirements mentioned have been forwarded to the inspector of the only establishment in the United States where inspection for horse meat has been established.

Secretary Wilson calls attention to the fact that the inspection service of the United States is a Government service under his immediate charge, and that Congress has made it the duty of the Secretary of Agriculture to inspect the horse meat prepared for the interstate or foreign trade and to certify to that which originates from horses that are in a sound and healthy condition. Referring to the consul's statement that it would appear that the Swedish officials are doing all in their power to make the importation of horse meat as difficult as possible, he observes that if the Swedish Government does not desire this kind of meat and should shut it out from all countries alike, no objection could be seen to her action: but to raise objections to the form of the United States stamps and the signature on the certificates, and to make requirements which appear to be unreasonable as to the manner of affixing the stamps, would seem to impose discriminatory restrictions that are hardly in accord with that agreeable manner which the Government of the United States has endeavored to show in its methods applied to the imports from other countries.

In view of the complete and thorough character of the inspection service of the United States, it is hoped that the stamps, seals, and certificates of the official United States inspecting veterinarian, as well as his manner of making and affixing the same, may hereafter be deemed sufficient by the custom-house officials of Sweden.

I beg, etc.,

W. W. THOMAS, Jr.

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*Mr. Thomas to Mr. Hay.*

No. 145.]

LEGATION OF THE UNITED STATES,  
*Stockholm, April 30, 1900.*

SIR: Referring to your instruction No. 69 of November 23, in regard to the inspection of American horse meat imported into Sweden, and transmitting copy of a dispatch from our consul at Gothenburg, stating that the customs officials at Gothenburg will not accept the United States veterinarian's name stamped on the Agricultural Department's certificate and stamp, but insist that the name of the inspecting veterinarian shall be handwritten; referring also to my dispatch No. 130 of December 30 last, transmitting copy of my note, same date, to the minister for foreign affairs, requesting that the stamps of the official United

States inspecting veterinarian may hereafter be deemed sufficient by the customs officials of Sweden, I have now the honor to inform you that I have just received a note, dated the 27th instant, from the minister for foreign affairs, on the subject, a copy of which, accompanied by a translation, is inclosed herewith, together with a copy of a letter from the minister of the interior to the minister for foreign affairs, and a printed copy of the royal ordinance of February 4, 1898, both of which I inclose.

From the note of the minister for foreign affairs it is gratifying to learn that through his good offices the Government of the King has prescribed that so far as concerns the importation of horse meat of the United States of America the provisions of article 2 of the royal ordinance of February 4, 1898, regulating the importation of horse meat in general, will not prevent the Swedish customs officials from recognizing as authentic signature the stamped signature of the official veterinarian inspector of the United States upon the marks mentioned in article 2, above cited.

I have the honor to be, etc.,

W. W. THOMAS, JR.

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[Inclosure—Translation.]

*Mr. Lagerheim to Mr. Thomas.*

FOREIGN OFFICE,  
*Stockholm, April 27, 1899.*

MR. MINISTER: By a letter dated December 30 last you have been pleased to transmit to me a copy of a letter addressed by the consul of the United States at Gothenburg to the Department of State at Washington on the subject of the importation into Sweden of horse meat coming from the United States.

In his letter the consul reports that the customs officials at Gothenburg, in refusing to recognize the official American veterinarian's signature stamped upon the marks and certificates of the Department of Agriculture at Washington, require that the signature of the veterinarian should be handwritten, and that the barrels containing the imported meat should be sealed at both ends in a certain manner indicated by them.

In referring to the report of the consul and in pointing out the thorough and conscientious character of the inspection service of the United States, you have been pleased to request my intervention to the end that the stamps, seals, and certificates of the official United States veterinarian inspector, as well as the manner of making and affixing the same, may hereafter be deemed sufficient by the customs officials of Sweden.

This matter having been submitted to the examination of the competent authorities, the minister of the interior has just addressed me a letter, a copy of which is inclosed herewith, from which you will be pleased to see that the authorities consulted are of the opinion that every package of horse meat imported into Sweden must be sealed and marked in such a way that it is not possible to be opened or the inspected meat exchanged for other meat without breaking the seals. Under these circumstances the Government of the King is limited to prescribing that so far as concerns the importation of horse meat of the United States of America, the provisions of article 2 of the royal ordinance of February 4, 1898 (a copy of which is herewith inclosed), regulating the importation of horse meat in general, will not prevent the customs officials from recognizing as authentic the stamped signature of the official veterinarian inspector of the United States upon the marks mentioned in article 2, above cited.

Please accept, etc.,

LAGERHEIM.



## SWITZERLAND.

### TREATY (1850) BETWEEN THE UNITED STATES AND SWITZERLAND—DENUNCIATION OF ARTICLES VIII TO XII.

*Mr. Pioda to Mr. Day.*

LEGATION OF SWITZERLAND IN THE UNITED STATES,  
*Washington, June 29, 1898.*

SIR: In virtue of the treaty of friendship, commerce, and extradition between the Swiss Confederation and the United States of America of November 25, 1850, my Government instructs me formally to request through your excellency, as I hereby have the honor to do, that it may please the United States Government to extend to Swiss imports in the United States the concessions stipulated on the 30th ultimo by the United States with France, by means of the arrangement which went into operation on the 1st instant.

My Government would consider a refusal on the part of the United States Government as a violation of the treaty aforesaid, and especially of articles 8, 9, 10, and 12. The most-favored-nation clause, which is contained in those articles, is absolutely unlimited.

It is therefore my duty to ask that it may please the United States Government to give, immediately, the necessary instructions, to the end that Swiss products may enjoy, on entering the territory of the Union, the concessions granted to France in the aforesaid arrangement.

Feeling confident that the United States Government will recognize the justice of the request made by the Government of the Swiss Confederation, and awaiting the communications which your excellency will be pleased to address to me on this subject, I avail myself of this occasion, Mr. Secretary of State, to offer you the assurance, etc.

J. P. PIODA.

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*Mr. Day to Mr. Pioda.*

No. 179.]

DEPARTMENT OF STATE, *July 29, 1898.*

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, in which, in conformity with the instructions of your Government, you ask that the concessions stipulated for in the reciprocity agreement between the United States and France of May 28, 1898, be extended to importations from Switzerland. You state that your Government would consider a refusal of this request as a violation of the treaty between the United States and the Swiss Confederation of November 25, 1850, and especially of Articles VIII, IX, X, and XII thereof. You observe that the most-favored-nation clause, which is contained in these articles, is "absolutely unlimited."

The Department has noticed with some surprise the positiveness of the terms in which the demand of your Government is put forward.

Whatever may be the views of any other government on the subject, the Government of the United States has consistently maintained the view that the most-favored-nation clause does not entitle a third government to demand the benefits of a special agreement of reciprocity.

The articles of the treaty of 1850, which you designate in your note, merely embody an agreement for the most-favored-nation treatment.

Article VIII provides that in all that relates to "the importation, exportation, and transit of their respective products the contracting parties shall treat each other, reciprocally, as the most favored nation, union of nations, state, or society, as is explained in the following articles," namely, Articles IX, X, XI, XII.

Article IX stipulates that neither of the contracting parties "shall impose any higher or other duties upon the importation, exportation, or transit of the natural or industrial products of the other than are or shall be payable upon the like article being the product of any other country."

Article X provides that neither of the contracting parties shall "grant any favor in commerce to any nation, union of nations, state, or society which shall not immediately be enjoyed by the other party."

Article XI reserves to each party the liberty to determine the manner of establishing the origin of its own products in case of the imposition of a differential duty.

Article XII contains various stipulations, none of them pertinent to the present subject of discussion.

The various provisions above set forth constitute, as the treaty itself declares, a guaranty of most-favored-nation treatment in matters of commerce.

It is and always has been the view of this Government that a reciprocity treaty is a bargain and not a favor, and that it therefore does not come within the scope of the most-favored-nation clause.

The position of the United States, as thus expressed, is not only well known, but has been frequently and generally conceded. It was accepted and carried out in the case of the reciprocity treaty between the United States and Great Britain of 1854 in relation to Canada; in the case of the reciprocity treaty with Hawaii of 1875, which was renewed in 1884, and in the case of the reciprocity agreements under the United States tariff act of October 1, 1890.

The Department, as at present advised, is not aware that the Government of Switzerland has on any previous occasion claimed the advantages accruing to the contracting parties under any of the reciprocity treaties of the United States.

On the grounds above set forth this Government is unable to admit that the demand put forward in your note is well founded, or that the refusal to concede it constitutes a violation of any of the treaty stipulations between the two Governments.

In conclusion I desire to add that, if the Government of Switzerland wishes to secure for itself the advantages impartially held out by the act of Congress under which the agreement with France of May 28, 1898, was concluded, the Department will be glad to enter into negotiations with you for the purpose of effecting a similar arrangement.

Accept, Mr. Minister, etc.,

WILLIAM R. DAY.

*Mr. Pioda to Mr. Adee.*

LEGATION OF SWITZERLAND IN THE UNITED STATES,  
*Washington, D. C., September 26, 1898.*

SIR: I have had the honor to receive and to communicate to my Government the note of your excellency's honorable predecessor of July 29, written in reply to the request made in mine of June 29, that the reductions in import duties granted to France by the reciprocity treaty of May 30, 1898, should be extended to Swiss productions.

My Government instructs me to inform your excellency that it can not declare itself satisfied with that reply, and that it must persist in its claim, the justice of which can not escape you after a reexamination of the question.

Your predecessor was pleased to admit, himself, that Articles VIII to XII of the treaty of 1850 guarantied the rights of the most favored nation to both contracting parties; but he added that these rights did not extend to reciprocity treaties, the latter constituting, in his view, a "bargain" rather than a "favor." The said note invokes, moreover, the fact that this view has always been maintained by the United States in the controversies of the same kind which it has had with other countries.

Allow me to remark that this view is in contradiction to the precise terms of the treaty and to the negotiations which led to its conclusion.

Article VIII provides as follows: "In all that relates to the importation and transit of their respective products, the United States of America and the Swiss Confederation shall treat each other, reciprocally, as the most favored nation, \* \* \* as is explained in the following articles."

Now, as regards the products comprised in the reciprocity treaty in question, the most favored nation is France, since the duties on its products have been reduced for the benefit of that country. Every reciprocity treaty is evidently a "bargain" between the two parties, but the reductions which the United States have granted to France certainly constitute a "favor" to the latter country, just as the concessions which she has made, by way of compensation, constitute a favor to the United States. The expression "most favored nation" is, therefore, properly invoked in this case.

The most-favored-nation clause, which figures in a general way in Article VIII, is most clearly developed in Articles IX, X, and XI.

The first of these articles (IX) reads as follows: "Neither of the contracting parties shall impose any other or higher duties upon the importation, exportation, or transit of the natural or industrial products of the other than are or shall be payable upon the like articles being the produce of any other country." \* \* \* It appears expressly, from this article, that the most-favored-nation clause extends to import duties, and that it comprises not only the duties in force at the time of the conclusion of the treaty, but also such as may be levied in future on the productions of any country.

Article X is in substance as follows: "Each of the contracting parties hereby engages not to grant any favor in commerce to any nation \* \* \* which shall not immediately be enjoyed by the other party."

Allow me to call your very special attention to the precision with which this article stipulates for the immediate extension to one of the contracting parties of any favor granted by the other to a third nation.

The expression "immediate" leaves no doubt that the reciprocal enjoyment of the favors is not to be preceded by any understanding as to compensation.

Finally, Article XII, which treats of the flag, repeats very clearly that Swiss productions arriving under the flag of the United States or that of one of the most favored nations are to pay the same duties as the productions of the latter nation. As France is the most favored nation as regards spirits and other articles comprised in the reciprocity treaty, similar Swiss goods imported under the French flag could not, even if Articles VIII, IX, and X did not exist, be subjected to higher duties than spirits and other productions of French origin.

It is not, furthermore, only the text of the treaty which speaks in favor of the claim raised, but also the declared wish of the plenipotentiary of the United States of America who was charged with the negotiations.

In the treaties concluded by the United States with other countries, Belgium, Italy, Austria-Hungary, Denmark, and Prussia, for instance, which treaties were concluded partly before and partly subsequently to 1850, the most-favored-nation clause is followed by either one or the other of the following restrictive provisions: "gratuitously, if the concession or favor to such other State is gratuitous, and on allowing the same compensation, or its equivalent, if the concession is conditional;" or \* \* \* "freely, when freely granted to such other nation, or on allowing the same compensation when the grant is conditional."

Such a provision is entirely wanting in our treaty, and its absence is not due to chance, but to a very clearly expressed intention. As you will be pleased to observe, by reading the inclosed message, which was addressed by the federal council to the federal assembly December 3, 1850, a provision of this kind was, it is true, proposed by Mr. Dudley Mann, plenipotentiary of the United States of America, but the Swiss delegates having made some objections to accepting it, Mr. Mann abandoned it "out of friendly consideration for Switzerland."

It was evidently feared that such a provision would open the door to a discriminating and even prohibitory system of treatment. The correctness of these fears is well shown by the controversy now under consideration. If, as is claimed by the United States Government, spirits and other articles of French origin may receive, on entering the United States, more favorable treatment than similar articles of Swiss origin, the effect of this may certainly be to exclude the latter articles from the said market, that is to say, to prohibit them. The same situation would arise if the United States should conclude reciprocity treaties with other countries.

Switzerland would be in constant danger of losing the market for one or another of her productions in the United States unless she offered a compensation each time, or if the latter should not be deemed sufficient.

There is no doubt whatever that the Swiss delegates wished to protect their country from such contingencies when they refused the insertion in the treaty of the restrictive clause proposed by Mr. Mann. They demanded and obtained a full and unlimited guarantee of the usage of the most favored nation.

I trust, in view of this fact, that the Government of the United States of America will not hesitate to concede our claim, and that it will admit the justice of our contention the more readily inasmuch as

the special conditions which induced Mr. Mann to renounce a restriction of favored usage for Switzerland have not ceased to exist. In fact, as is stated in the message referred to, Mr. Mann further proposed the following addition to Article X of the treaty, the text of which I have reproduced above:

The United States pledge themselves the more readily to this stipulation inasmuch as the Swiss Confederation has inserted in its constitution certain liberal provisions which specially favor the productions of the United States.

It clearly appears from this proposed addition—afterwards withdrawn by its author, owing to the objections of the Swiss delegates—that Mr. Mann desired to do justice to Switzerland by granting to her, by means of the specially precise provisions of Article X and of the other articles invoked, the unlimited rights of the most favored nation, and by thereby showing that that country, by reason of the facilities which it granted already and in principle to the commerce of the United States, had established in advance, of its own accord, the compensations for the advantages which it might reasonably expect to derive itself from the clause conceded. This view held by Mr. Mann has lost nothing of its value. This appears from article 29 of the Swiss federal constitution and from the duties imposed upon the productions of the United States according to the principles which it embodies. The said article contains the following provisions:

The collection of the federal taxes (péages) shall take place in accordance with the following principles:

1. Import duties.

a. Materials required by the manufacturing industries and the agriculture of the country shall be taxed as low as possible.

b. The same shall be the case with articles necessary for the subsistence of the people.

c. Fancy articles shall be subject to the highest taxes.

Except in the case of obstacles over which no control can be exercised these principles shall be observed when treaties of commerce are concluded with foreign countries.

2. Export duties shall be as moderate as possible.

The principal articles which the United States export to Switzerland are: Raw cotton (according to the Swiss statistics for 1897 to the value of \$2,730,635), wheat (\$1,931,380), petroleum (\$1,076,050), unmanufactured tobacco (\$742,210), leather (\$710,685), canned meats (\$818,540), lard (\$279,795), dried fruits (\$216,100), bicycles (\$53,600).

These articles are now subject to the following duties in Switzerland, France, and Germany:

	Duties expressed in per cent of the approximate value, Switzerland.		Duties on 100 kilograms.	
			France.	Germany.
Raw cotton .....	0.06	0.3	<i>Dollars.</i>	<i>Dollars.</i>
Wheat .....	.06	1.4	Exempt.	Exempt.
Petroleum .....	2.25	13.0	1.40	1.87
Unmanufactured tobacco .....	5.00	26.2	1.80	1.50
Leather .....	11.60	2.4-6.7	2.50	21.25
Canned meats .....	3.20		Monopoly.	
Lard .....	1.20	5.4	5 to 12	4.50
Dried fruits .....	1.00	9.2		9.00
Bicycles .....	.50	3.75	3.00	4.25
	14.00	8.00	5.00	5.00
			5.00	2.50
			2.00	1.00
			44.00	6.00

This table clearly shows that Swiss duties are exceedingly moderate, both as regards the value of the goods and in comparison to the duties levied by other countries. I will add, at the same time, that the principal Swiss productions exported to the United States pay there, for the most part, enormous duties, greatly in excess of those levied in Switzerland on American articles.

Our right to the usage of the most favored nation is thus doubly and trebly guaranteed, without any restriction, by the treaty of 1850 and by the history of its negotiation.

In view of this array of evidence in support of the claim of my Government, the objection which consists in saying that the most-favored-nation clause does not apply to reciprocity treaties, and that the United States have always maintained this restrictive interpretation, loses all possible value as regards the treaty with Switzerland.

In the note above referred to the fact is invoked that on other occasions Switzerland has not claimed the rights of the most favored nation. I had the honor to explain the reason of this in my note of July 29. I then stated, in substance, that the reductions of duties that were granted in 1890 to Brazil and other States, on the basis of the McKinley tariff, had reference to sugar, coffee, tea, hides, and other articles which Switzerland does not export; that Switzerland, consequently, had no interest in claiming these favors. It is, furthermore, to be remarked that the nonpresentation of a claim by Switzerland, even if that country had been justified in presenting it by a real interest, would in no wise detract from the value and justice of the present claim.

Your predecessor was pleased to add, at the end of his note, that the United States Government was prepared to enter into negotiations with Switzerland in order to render the "advantages" conceded to France accessible to her by means of the treaty based upon section 3 of the tariff.

As appears from the foregoing, my Government asks that these favors be granted without any negotiation and without compensation, as a necessary consequence of the treaty of 1850, and by way of respect for that international instrument. In a general way, and abandoning the ground of right, in order to speak of the question of fitness, I would remark that the reciprocal treatment, without compensation, which has been agreed upon between our two nations, is altogether in favor of the United States. The concessions which have been granted to France, and the benefit of which is claimed by my Government, are of exceedingly small importance to it. In 1897 Switzerland exported to the United States spirits to the amount of 215,000 francs. The exports of other articles, viz, tartar, wine lees, wine, vermouth, pictures, drawings, and statuary amount to little or nothing. On the other hand, Switzerland, by her treaties with Germany, Austria-Hungary, and Italy, has reduced her duties on canned meats, dried fruits, and bicycles, among other things. The imports of these American articles into Switzerland in 1897, at these reduced rates, were as follows:

	Francs.
Canned meats, 18,518 metric quintals, valued at.....	2,592,520
Dried fruits, 13,381 metric quintals, valued at.....	1,070,480
Bicycles, 1,144, valued at.....	268,000

If the instrument of 1850 did not oblige Switzerland to treat the



United States on the footing of the most favored nation, the said articles would pay the following high duties:

Canned meats, 8 francs per 100 kilograms, instead of 6 francs.

Dried fruits, 5 francs per 100 kilograms, instead of 2½ francs.

Bicycles, 100 francs per 100 kilograms, instead of 70 francs.

You will observe from the foregoing that it would be greatly to the interest of Switzerland to adopt your interpretation and, consequently, to levy its high duties upon your productions. Nevertheless, the question is not now to seek the advantages of the treaty of 1850, but to respect its text and its spirit, whatever they may be, and to claim its strict and loyal execution.

Trusting that after a careful examination of the considerations which I have had the honor to set forth above, you will be pleased to favor me with a reply satisfying the claim of my Government, I beg you to accept, etc.,

J. B. PIODA.

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*Mr. Hay to Mr. Pioda.*

No. 201.]

DEPARTMENT OF STATE,  
*Washington, November 21, 1898.*

SIR: Your communication to this Department under date of the 26th of September, 1898, was duly received and has been carefully considered.

Your note of the 29th of June, 1898, claimed for Swiss products, without compensatory concessions, the benefit of the concessions recently made by the United States to France in return for specific compensations granted by France. My predecessor found himself unable to accept the construction of the most-favored-nation clauses of the treaty of 1850 between the United States and Switzerland which your Government had presented in the note referred to. In his response under date of July 29 he maintained that construction which had been uniformly given to such clauses by the Government of the United States for nearly a century, namely, that they were intended to constitute a mutual security against gratuitous preferences which might from various motives of policy be given to the commerce of another nation and were never intended as a surrender of the right of either nation to independently adjust the interests of its special commerce with any other country by special and mutually compensatory contract.

In this view I am forced to concur, not only by the language of the treaty, which does not deny that right, but by long-continued precedents affirming that construction. Article X of the treaty in question expressly refers to the granting of "any favor in commerce." That which is obtained only for an adequate price is in no proper sense "a favor." It is a purchase, a relation of buying and selling, however important may be the mutual advantage of the transaction. The plain object of the clauses in question is to secure equality of treatment, not superiority over all others by exceptional treatment.

In 1817, when a similar question arose upon a claim made upon this Government by France, John Quincy Adams, one of the masters of international law, then Secretary of State and afterwards President, declared in respect of the French claim, that "the most-favored-nation clause only covered gratuitous favors, and did not touch concessions for equivalents." President Monroe, in his message to Congress of

1821, reaffirmed this view, saying: "If this should be so construed as that France should enjoy, of right and without paying the equivalent, all the advantages of such conditions as might be allowed to other powers in return for important concessions made by them, then the whole character of the stipulations would be changed. She would not only be placed on the footing of the most favored nation, but on a footing held by no other nation."

In succeeding Administrations of this Government down to the present time the like rulings have been declared and made public. They have also been affirmed by the Executive Department of Justice. It is also to be noted that in 1887 the highest tribunal of this country, the Supreme Court of the United States, upon an appeal to it by claimants under the treaty with Denmark, gave judgment according to this interpretation of the most-favored-nation clause.

Having in view this unbroken line of precedents from an early period in the history of the United States, and the publicity of the record, we might be permitted to suppose that all nations having like commercial conventions with the United States must be aware of the meaning which has been uniformly attributed to these clauses by this Government. This construction is quite as much for the advantage of other contracting governments as it is to the United States. It is established upon considerations of reason and justice, and upon the recognized national need of freedom in adapting international contracts to the differing conditions of international trade with different countries. Manifestly, Switzerland has the most-favored-nation treatment so long as she may have the same privileges on terms equivalent to those granted to the other country.

The second ground of reclamation by the Swiss Government is stated as follows in your note of the 26th of September:

[Translation.]

It is not, furthermore, only the text of the treaty which speaks in favor of the claim raised, but also the declared wish of the plenipotentiary of the United States of America who was charged with the negotiations.

In support of this statement you inclose a copy of the message of the Federal Council to the Federal Assembly, accompanying the treaty of 1850 when referred to them for approval.

This message represents that the American plenipotentiary who conducted the negotiations in effect agreed to that interpretation of the treaty for which the Swiss Government now contends, and signified it by withdrawing a stipulation from the projet which would have been inconsistent with such interpretation. It further appears that the Swiss Government ratified the treaty under the distinct representation that its construction was the same that it now claims.

In order to ascertain if the convention was also ratified by the Government of the United States under circumstances which necessarily implied a knowledge of that understanding, an examination has been made of the original correspondence of the American negotiator with his Government, and of its connection with its ratification.

As the result of this investigation, it appears that the Executive department was advised by its plenipotentiary of the alleged understanding, that the dispatch indicating it was communicated by the President to the Senate in connection with the treaty submitted for ratification, and that the treaty was ratified without amendment of the clauses in question.

Under these circumstances we believe it to be our duty to acknowledge the equity of the reclamation presented by your Government. Both justice and honor require that the common understanding of the high contracting parties at the time of the executing of the treaty should be carried into effect.

It is also my duty to advise you that the foregoing recognition of the equity of the claim of your Government compels us at the same time to regard the Articles VIII, IX, X, XI, XII, of the treaty as henceforth constituting an exception to the otherwise uniform policy of the United States. This policy has been to treat the commerce of all friendly nations with equal fairness, giving exceptional "favours" to none. Should this Government continue to give to Swiss products gratuitously all advantages which other countries only acquire for an equivalent compensation, it would expose itself to the just reproaches of other Governments for its exceptional favoritism. We desire that our friendly international policy should be maintained in its uniform application to all our commercial relations.

It may, therefore, be necessary, in case the Governments of the United States and of Switzerland should not be able to agree upon some practicable arrangement of the matter in question, that the President should communicate to your Government notice of his intention to arrest the operation of the treaty of 1850, or of the clauses of said treaty numbered from VIII to XII.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Du Bois.*

No. 127.]

DEPARTMENT OF STATE,  
*Washington, November 28, 1898.*

SIR: I inclose herewith for your information a copy of a note<sup>1</sup> of the 21st instant from the Department in reply to the demand of the Swiss Government for the benefit, without compensatory concessions, of the provisions of the recent reciprocity agreement between this country and France.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Deucher.*

No. 204.]

DEPARTMENT OF STATE,  
*Washington, December 7, 1898.*

SIR: In connection with my note to you, No. 201, of the 21st ultimo, I have the honor to inform you that, under the circumstances therein set out, the Secretary of the Treasury has directed the customs officials of the United States to impose and collect on the products of Switzerland exported to the United States from that country similar to those enumerated in the reciprocal commercial arrangement with France, proclaimed on May 30, 1898, the rates of duty imposed and collected on such merchandise imported from France under said reciprocal arrangement.

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

I inclose a copy of the direction referred to, from which you will also see that all entries of such products imported from Switzerland on and after June 1, 1898, which have been otherwise liquidated, shall be reliquidated in accordance with the above ruling.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Du Bois.*

No. 131.]

DEPARTMENT OF STATE,  
Washington, December 14, 1898.

SIR: Referring to the Department's No. 127 of the 28th ultimo, relative to the reply of this Department to the demand of the Swiss Government for the benefit, without compensatory concessions, of the provisions of the recent reciprocity agreement between this country and France, I inclose for your information copy of a further note<sup>1</sup> to the Swiss legation at this capital on the subject.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Leishman.*

No. 138.]

DEPARTMENT OF STATE,  
Washington, December 29, 1898.

SIR: Your attention is recalled to my No. 201, dated November 21, 1898, addressed to Mr. Pioda at Washington, copy of which was forwarded to your legation.

In concluding that note to Mr. Pioda I indicated to him the embarrassment of this Government in its commercial relations with other countries resulting from the construction now given to the most-favored-nation clauses of the treaty of 1850. I also expressed to him the alternative necessity of a further conventional understanding with the Swiss Government, or else the arrest of the operation of the treaty of 1850 in the manner provided by said treaty.

In the hope of avoiding the latter alternative by a resort to the former, I inclose herewith a projet of convention which leaves the existing treaty intact except so far as the four articles in question are concerned.

You will seize the first opportunity to present this projet to his excellency the minister for foreign affairs, with the request for his early consideration of it, assuring him at the same time of our earnest desire to conclude this question with the least possible derangement of our conventional relations as they have existed for the last half century.

It is understood that Mr. Pioda is soon to return to his post in Washington, and it is hoped that he may bring with him the requisite authority to conclude the proposed convention in order that it may be ratified by the Senate at its present session.

I am, etc.,

JOHN HAY.

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

*Mr. Leishman to Mr. Hay.*

No. 124.]

UNITED STATES LEGATION,  
*Berne, Switzerland, January 14, 1899.*

SIR: In compliance with instructions contained in your dispatch No. 138 of December 29 last, I at once communicated with His Excellency the President of the Swiss Confederation, as per copy herewith inclosed, and realizing the desirability of prompt action, I followed it up with a personal interview, knowing from a personal communication from my friend, Mr. Pioda, who is spending his holiday on his estate in Perugia, Italy, that it was not his intention to return to Switzerland before returning to his post of duty, and that he intended sailing direct from Naples on the 20th instant.

The President promised to give the matter prompt consideration, but as it is necessary to first refer the matter to the minister of commerce, it will probably not be possible to arrive at any definite conclusion ere Mr. Pioda's departure, and even should the federal council decide favorably on the matter it could not be formally ratified on the part of the Swiss Government until the next regular meeting of the Swiss Federal Assembly in June next.

Regretting my inability to comply more closely with the desire expressed in your dispatch,

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

*Mr. Leishman to Mr. Muller.*UNITED STATES LEGATION,  
*Berne, Switzerland, January 11, 1899.*

SIR: I beg leave to submit to your excellency a copy of a projet of convention which I have just received from the honorable Secretary of State, which if promptly executed by your excellency's Government and the Government of the United States would leave the existing treaty between our respective countries intact, except so far as the four articles in question are concerned.

Legislation of this character is rendered necessary, as already indicated by the honorable Secretary of State to your honored representative at Washington, owing to the embarrassment of the Government of the United States in its commercial relations with other countries resulting from the construction now given to the most-favored-nation clauses of the treaty of 1850 between the Swiss Confederation and the United States of America, and I earnestly request that your excellency will give the inclosed projet of convention your early and favorable consideration, so as to enable the Department of State to submit the proposed convention to the Senate for ratification during the present session, which expires March 4 next.

With the assurances of the earnest desire of my Government to conclude the question with the least possible derangement of our conventional relations, which have existed for nearly half a century, and begging, etc.,

JOHN G. A. LEISHMAN.

*Mr. Leishman to Mr. Hay.*

No. 131.]

UNITED STATES LEGATION,  
*Berne, Switzerland, February 16, 1899.*

SIR: Referring to your dispatch No. 138, of December 29, 1898, not having received any reply to my note of January 11 addressed to the President of the Swiss Confederation, copy of which was inclosed to you in my dispatch No. 124, of January 14, 1899, I again addressed a

note to the President, under date of February 14, 1899, calling attention to this fact and requesting a prompt decision, in response to which I am just in receipt of a note from the Swiss federal council containing a counter proposition and proposed projet of convention, copies of which are herewith transmitted, together with translation, which I hasten to forward by first mail, with the hope that it may reach you in time to enable you to submit the matter during the present session of the Senate, in the event of the proposed changes in projet of convention meeting with your approval; and as the note of the Swiss federal council is self-explanatory it is hardly necessary for me to add any comments, and can only regret that the delay in receiving a reply, which, considering the importance of the matter, has not been unreasonable, leaves so little time for consideration ere the closing of the present session of the Senate.

Regretting my inability to more clearly carry out your wishes, I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure No. 1.]

*Mr. Leishman to Mr. Muller.*

UNITED STATES LEGATION,  
*Berne, Switzerland, February 14, 1899.*

SIR: I respectfully beg leave to call your excellency's attention to my note of January 11, inclosing a copy of a proposed projet of convention, and owing to the urgency and importance of the matter venture to hope that your excellency will kindly furnish me with your reply, so as to enable me to forward same to the honorable Secretary of State by the end of the present week, as otherwise, in the event of favorable action on the part of your excellency's Government, the papers could not reach Washington in time to enable the Department of State to submit the proposed convention to the Senate for ratification during the present session, which expires on March 4 next; and as the next regular session does not take place until December, failure to secure the necessary legislation would leave my Government in an embarrassing position, for reasons already explained.

With the hope that I may be favored with a prompt and favorable reply, and begging your excellency, etc.,

JOHN G. A. LEISHMAN.

[Inclosure No. 2.—Translation.]

*Mr. Muller to Mr. Leishman.*

*BERNE, February 14, 1899.*

SIR: We had the honor to receive your excellency's note of January 11 last, by which you have made known to us the projet of a supplementary convention destined to modify the application of Articles VIII, IX, X and XII, of the treaty of establishment and commerce concluded on November 23, 1850, between Switzerland and the United States of America.

The essential point of this convention would have the object of limiting the application of the treatment of the most favored nation to those articles only for which one or other of the contracting parties has accorded to another nation, of its own free will and without any compensation, reductions on the import duties, while all other articles for which the reduction of the duties has only been admitted in return for compensation should be excluded from the treatment of favor. We beg, in the first place, to observe that the projet, compared with other treaties concluded by the United States, appears to contain a deficiency, in consequence of which Switzerland could not claim the advantages of treatment accorded to third parties even if she offered equivalent compensations.

The Government of the United States will recognize that by this fact alone Switzerland would find herself in a position of inferiority toward other nations.

Further, and leaving on one side what we believe to be an involuntary omission, the proposed addition to the treaty of 1850 would make Switzerland lose the only advantage that the articles in question offered from a practical point of view. In fact, as the United States have not, to our knowledge, till now accorded concessions without compensations to any country, and as the tariff bill of the 24th of July, 1897, only takes account of concession in exchange for compensations, the clause of the treatment of most favored nation, so interpreted, would become a dead letter for Switzerland.

Under these conditions we regret not to be able to discover of what advantage it would be to our country to give its assent to the projet of a supplementary convention as proposed by the Government of the United States, and to the conclusion of which it subordinates the abandonment of its intention to denounce the treaty of 1850.

Being, however, animated by a desire to prove our good will to your Government, and to smooth away the difficulties raised by the clause of the most favored nation, we believe it to be possible to attain this end by the conclusion of a customs convention, relating to which projet we still expect the communication of the demands to be formulated by the United States in reply to those that we have had the honor to make known to your excellency in our note of the 11th of October last. If it should be possible to arrive by such an act at an understanding as to the duties to be imposed on our principal articles of export to the United States we should be disposed to consent at the same time to restrict to these articles the treatment of the most favored nation established by the treaty of 1850, and to forfeit our claim to this treatment for any other articles.

We annex, by way of explanation, the projet of a convention conceived according to this idea.

The Government of the United States will recognize that a solution of this nature would do away with the difficulties created by the afore-mentioned treaty.

In fact it would restore to the union a complete liberty of action with respect to almost all the points of its customs tariff, of these we should keep only the advantages of the gratuitous concessions, which advantages are also reserved to the other States that have concluded treaties with the United States.

The unlimited right of the most-favored nation would only be maintained in favor of a very small number of articles of predominating interest to Switzerland, including concessions in return for compensations.

But while, at the same time fixing on a mutual understanding the duties to be imposed on these articles and on those of interest to the United States, the drawback that other countries could pretend to the same treatment with respect to said articles without fulfilling analogous conditions would be avoided; that is to say, that these States would be obliged as we are to come to an understanding with the United States and to offer them compensations. This, if we have rightly understood, is the end pursued by your Government in its projet of convention, which projet, therefore, is in its consequences identical with ours, with the difference that this last would at the same time permit both parties to guarantee their principal products against the eventuality of a system of favor exclusively of profit to other countries. On the other hand, the projet of the Government of the United States would purely and simply annul the advantages of the clauses of the treaty of 1850, and far from this offering a more considerable profit to your nation, it would cause it to lose even that which it actually derives from the said clauses, especially with regard to preserved meats and other products, as we have had the honor to show more clearly in our note of the 1st of September last. We do not mention the advantages which might follow upon the conclusion of the proposed convention.

With the hope that your Government will kindly examine our objections and our proposals with the attention that they merit, we avail ourselves of this opportunity to renew, etc.

In the name of the Swiss Federal Council.

The president of the Confederation:

MULLER,

*The Chancellor of the Confederation.*

[Inclosure No. 3.]

#### PROJET OF A CONVENTION.

The Federal Council of the Swiss Confederation and the President of the United States of America, animated by the desire to maintain the amicable relations,

happily existing between the two countries, as also to develop the commercial relations and to prevent any difficulties between them, notably to obviate, by an additional convention, the embarrassments and difficulties which may result from the interpretation given to articles VIII, IX, X, and XII of the treaty concluded between the two Governments on November 25, 1850, have for this end appointed as their plenipotentiaries:

The Federal Council of the Swiss Confederates,  
The President of the United States of America,  
Who, after having exchanged their credentials, found to be correct and in due form, have agreed to the following stipulations:

ART. I.

For the products of Swiss origin, hereafter named, the import duties into the United States of America are fixed as follows:

ART. II.

The products of the United States of America, hereafter designated, shall pay the following duties upon entering Switzerland:

ART. III.

The contracting parties, thus specially and mutually favoring their commercial relations, agree not to accord any favor to another country for the products above mentioned in Articles I and II unless it be also immediately and without compensation extended to similar products of the other party, even if the said favor be accorded in return for compensation.

ART. IV.

As to the products not enumerated in Articles I and II, the contracting parties will reciprocally treat each other on the footing of the most-favored nation, applying to each other the advantages accorded or that may be accorded the third parties; gratuitously, if these advantages have been granted gratuitously, or in exchange for equivalent compensations if they are based on compensations.

ART. V.

The Articles VIII, IX, X, and XII of the treaty of establishment and commerce, concluded between the two contracting parties on November 25, 1850, will, as soon as the present convention enters into force, be interpreted conformably with Articles III and IV above stipulated.

ART. VI.

The present convention shall be ratified; it will enter into force immediately after the exchange of the instruments of ratification, which must take place as early as possible after the ratification by the Governments of the two countries.

It will be in force for four years. In the event of neither of the contracting parties having notified the other twelve months before the end of this period of its intention to put an end to the effects of the convention, it will remain obligatory until after the expiration of one year dating from the day when one or the other of the contracting parties shall have denounced it.

In testimony whereof the plenipotentiaries have signed the present convention in the English and French languages and have affixed their seals.

Also done in quadruplicate at Washington, to the — of —, 1899.

*Mr. Hay to Mr. Leishman.*

No. 157.]

DEPARTMENT OF STATE,  
*Washington, March 8, 1899.*

SIR: In my note addressed to Mr. Pioda, the Swiss minister at Washington, under date of November 21, 1898, I remarked that "Should this Government continue to give to Swiss products gratuitously all



advantages which other countries only acquire for an equivalent compensation, it would expose itself to the reproaches of other governments for its exceptional favoritism."

This apprehension has already been justified by recent international complaints.

I further advised him that it might be necessary, "in case the Governments of the United States and of Switzerland should not be able to agree upon some practicable arrangement of the matter in question, that the President should communicate to your (his) Government, notice of his intention to arrest the operation of the treaty of 1850, or of the clauses of said treaty numbered from VIII to XII."

In view of the note addressed to you by His Excellency, the President of the Swiss Confederation, under date of the 14th of February last, and of the necessary lapse of time before the ratifications of any new conventional arrangement between the United States and Switzerland can be effected and exchanged, this Government desires now to give notice of the termination of the treaty of 1850, in accordance with Article XVIII of said treaty. You will therefore give the required notification to His Excellency, the President of the Swiss Confederation, of the intention of the United States to arrest the operations of Articles VIII to XII, inclusive, of the convention signed on the 25th day of November, 1850. You may read to him this instruction, and will leave with him a copy of the subjoined announcement. You will, of course, advise this Department of the date on which you shall have given the above notification. The negotiations already initiated at Washington will in the meantime proceed to a conclusion. I am, etc.,

JOHN HAY.

To the PRESIDENT OF THE SWISS CONFEDERATION:

EXCELLENCY: In accordance with the instructions of my Government, I have the honor to announce to Your Excellency the intention of the United States to arrest the operations of the convention between the two Governments signed under date of November 25, 1850, so far as the operation of Articles XIII, IX, X, XI, and XII are concerned. (Date.)

(Signature.)

*Mr. Hay to Mr. Leishman.*

No. 161.]

DEPARTMENT OF STATE,  
*Washington, March 17, 1899.*

SIR: Your dispatch No. 131, dated February 16, 1899, with its inclosures, is received.

The communication of His Excellency the President of the Swiss Confederation, addressed to you under date of the 14th of February, which accompanied your dispatch, has been carefully considered.

His Excellency was correct in assuming that we have no desire to withhold from Switzerland the usual grant of most-favored-nation treatment in respect to compensatory and reciprocal agreement, allowing to Switzerland the benefit of such concession for an equivalent compensation. The projet of treaty transmitted to him left all the Articles VIII to XII in force, except in respect to the claim of compen-

satory grants to third nations. The privilege claimed by His Excellency seemed to us to be involved in the articles as they remained after applying the construction of the treaty which was given in article 1 of our projet.

In order, however, to remove all doubt, we withdraw article 1 of the projet submitted to His Excellency, and propose to substitute the following articles, which repeat the language of Articles VIII and X of the existing treaty, with an added clause which follows substantially the customary provisions of our treaties with other European Governments:

ARTICLE I.

In all that relates to the importation, exportation, and transit of their respective products the United States of America and the Swiss Confederation shall treat each other, reciprocally, as the most-favored nation, union of nations, state or society. In order the more effectually to attain the object contemplated each of the contracting parties hereby engages not to grant any favor in commerce to any nation, union of nations, state or society which shall not immediately be enjoyed by the other party, who shall enjoy the same gratuitously if the concession shall have been gratuitous, or on giving a compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concessions shall have been conditional.

ARTICLE II.

The foregoing article is adopted as a substitute for Articles VIII, IX, and XII of the treaty between these high contracting parties signed at Berne on the 25th day of November, A. D. 1850, and the articles so numbered shall cease to have effect from the date of exchange of the ratifications of this convention.

\* \* \* \* \*

In respect to the remaining suggestions of His Excellency as embodied in his projet of treaty, we regret to find them unacceptable in principle.

Article III of that projet reasserts the principle on account of which we felt obliged to denounce the existing treaty. It simply limits its application to a given list of exports. Our whole system of commercial treaties is based upon the principle of equality of treatment toward all friendly nations. Hence, all noncompensatory modifications of our tariff upon imports, whether by legislation or convention, inure to the benefit of all countries having most-favored-nation stipulations with the United States, and all compensatory modifications inure to the benefit of all who will give to the United States an equivalent compensation.

It was the necessity of bringing the Swiss treaty into harmony with this long-continuing policy of the United States which led to this correspondence. That object would be defeated by an acceptance of His Excellency's projet.

The amendment of the existing treaty which we propose, while it secures no exceptional advantage to Switzerland, continues our mutual treaty relations on a basis of security against the effects of discriminating adverse action by either party, and leaves them free to adjust by a separate convention the conditions of their special commerce.

After the adjustment of this prior question of the existing treaty we shall be most willing to proceed with negotiations for continuing to Switzerland by reciprocal agreement the benefits of the concessions made to France which Switzerland now enjoys only for the limited time of the duration of the denounced treaty. This we hope to accomplish in the most friendly spirit.

It appears to us to be equally desirable for the interests of both countries that the general relations established by the treaty of 1850

should remain undisturbed. His Excellency the President will doubtless concur in this opinion. In that case, the only question is whether Switzerland will accept in respect to commerce the same position in her relations with the United States which is occupied by the other countries of Europe. This is the object of the proposals on our part. If they are accepted, the denunciation may be revoked, and the new convention can be made to go into effect at the expiration of the year's notice already given, leaving to Switzerland the exceptional advantages now enjoyed until that date.

You will communicate the foregoing views to His Excellency, and leave with him a copy of this instruction. It will be more convenient for the negotiation if the Swiss Government will be pleased to give its instructions on the subject to the Swiss minister at Washington, who was formerly charged with them, and with whom the further negotiations may be conducted with greater facility.

I am, etc.,

JOHN HAY.

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*Mr. Leishman to Mr. Hay.*

No. 139.]

UNITED STATES LEGATION,  
*Berne, Switzerland, March 23, 1899.*

SIR: I have the honor to advise that in obedience with instructions contained in your dispatch, No. 157, of March 8, which only reached me late on the 22d, I called to-day by appointment on the President of the Swiss Confederation, and after reading the contents of your dispatch to His Excellency I left with him a formal notice announcing the intention of the United States to arrest the operation of Articles VIII, IX, X, XI, and XII of the treaty of November 25, 1850, in strict accordance with form suggested in your dispatch.

His Excellency stated that the matter would at once be referred to the chief of the department of commerce, and expressed the hope that an early and satisfactory settlement would be reached, and after a mutual exchange of courtesies the interview ended.

I have, etc.,

JOHN G. A. LEISHMAN.

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*Mr. Leishman to Mr. Hay.*

No. 142.]

UNITED STATES LEGATION,  
*Berne, Switzerland, April 1, 1899.*

SIR: Immediately upon receipt of your dispatch, No. 161, of March 17, which only reached me this morning, in accordance with instructions contained therein, I presented a copy of your dispatch to His Excellency the President of the Swiss Confederation, and will take pleasure in communicating with you further upon receipt of His Excellency's reply.

I have, etc.,

JOHN G. A. LEISHMAN.

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*Mr. Leishman to Mr. Hay.*

No. 153.]

UNITED STATES LEGATION,  
*Berne, Switzerland, June 2, 1899.*

SIR: Referring to my dispatch, No. 139, of March 23, 1899, I now have the honor to transmit to you herewith copy together with trans-

lation of a note from the Swiss Government, dated May 31, informing me of its decision to accept the denunciation of the Articles VIII to XII of the treaty of November 25, 1850, between the United States and Switzerland.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.—Translation.]

BERNE, May 31, 1899.

MR. MINISTER: In reply to Your Excellency's note of March 23, last, we have the honor to inform you that we have decided to accept the denunciation of the Articles VIII to XII of the Treaty of Establishment and of Commerce concluded between Switzerland and the United States on November 25, 1850.

The denunciation having taken place on the 23d of March of this year, these articles, in conformity with Article XVIII of the treaty, remain in force twelve months after the denunciation—that is, till 23d March, 1900.

Please accept, Mr. Minister, etc.,

In the name of the Swiss Federal Council.

The President of the Confederation:

MULLER.

• The Chancellor of the Confederation:

RINGIER.

**PASSPORT FOR JULES MICHOT, PRESUMABLY BORN IN THE UNITED STATES AND RESIDING TEMPORARILY IN SWITZERLAND.**

*Mr. Leishman to Mr. Hay.*

No. 155.]

UNITED STATES LEGATION,  
*Berne, Switzerland, June 14, 1899.*

SIR: I beg leave to lay before you an application for passport of Jules Michot, claiming to be a native-born citizen of the United States, together with the correspondence with Consul Ridgely with regard to the matter, and await your decision and instructions in the case.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

NATIVE.

I, Jules Michot, a native and loyal citizen of the United States, do hereby apply to the legation of the United States at Berne for a passport for myself.

In support of the above application I do solemnly swear that I was born at Philadelphia, in the State of Pennsylvania, on or about the ——— day of October, 1878.

That I do not know who my father was or whether he be alive or dead; indeed, I know nothing about my origin further than I have learned from the facts set forth in the accompanying record of the court of common pleas No. 3 of Philadelphia. I was brought from Philadelphia to Switzerland by my adopted mother, Rosalie Michot, whom I believe to be my own mother, in 1891, and since the month of July, 1891, I have lived in Geneva, where I am now learning the trade of a confectioner.

Rosalie Michot having married and left this country for Australia, where she is now living, I am without parents or relatives at Geneva and desire to establish my identity as a native-born citizen of the United States, to which country I declare it to be my intention to return within two years with the purpose of residing and performing the duties of citizenship therein, and that I desire the passport for the purpose of establishing my identity as a native-born citizen of the United States.

## FOREIGN RELATIONS.

## OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same, and that I take this obligation freely, without any mental reservation or purpose of evasion. So help me God.

JULES MICHOT.

CONSULATE OF THE UNITED STATES AT GENEVA.

Sworn to before me this 18th day of May, 1899.

BENJ. R. RIDGELY, *Consul*.

[Inclosure 2.]

*To the honorable the judges of the court of common pleas No. 3 of Philadelphia County:*

The petition of Rosalie Michot, of the said county, respectfully represents that she is desirous of adopting a boy called Jules Michot, a child without known parents, as one of her heirs, and for that purpose she herein declares her said desire, and also that she will perform all the duties of a parent to the said Jules Michot.

The petitioner further represents that the said boy was given to her on the 10th of January, 1879, at a station between Philadelphia and New York, the name of said station being unknown to your petitioner; that the age of the child at this said time was about three months; that every effort has been made by your petitioner to find the parents of the said child, and that these efforts have been unsuccessful. That the said child has resided with your petitioner and been supported and cared for as her own child since the said 10th day of January, 1879.

The petitioner therefore prays the court, if satisfied that the welfare of the child known as Jules Michot will be promoted by said adoption, your petitioner being the next friend of said child, to decree that the said child known as Jules Michot may assume the name of the petitioner, namely, of Jules Michot, and have all the rights of a child and heir of the petitioner and be subject to the duties of such a child. And she will ever pray.

Rosalie Michot, being duly sworn according to law, deposes and says that the facts above are true to the best of her information and belief.

Sworn and subscribed this 8th day of October, A. D. 1891. (Signed) Rosalie Michot.

[SEAL.]

J. M. R. JERMON, *Notary Public*.

And now, to wit, October 10, 1891, upon the petition of Rosalie Michot, and it appearing that Jules Michot, the child therein mentioned, has been supported by the said Rosalie Michot for the space of eleven years, and the said Rosalie Michot being the next friend of said child, and the court being satisfied upon due consideration that the welfare of the said Jules Michot would be promoted by being adopted as her child and one of her heirs, decree that the said child shall assume the name of Jules Michot, and have all the rights of a child and heir of the said Rosalie Michot and be subject to the duties of a child.

T. K. FINLETTER.

[Inclosure 3.]

THE COMMONWEALTH OF PENNSYLVANIA,  
*County of Philadelphia, ss:*

I, M. Russell Thayer, esquire, prothonotary of the several courts of common pleas, numbers one, two, three, and four, respectively, of the county of Philadelphia, do certify that the foregoing is a true copy of the petition and consent of Rosalie Michot, next friend of Jules Michot, for adoption and the decree of the court that said Jules Michot be adopted and assume the name and be subject of the duties of a child of said Rosalie Michot, of September term, 1891, number 203, as full, entire, and complete as the same remains on file in the court of common pleas No. 3, of the county of Philadelphia aforesaid, in the case above stated.

In testimony whereof I have hereunto set my hand and affixed the seal of the said courts this eighth day of March, in the year of our Lord one thousand eight hundred and ninety-nine (1899).

M. RUSSELL THAYER, *Prothonotary*.

COUNTY OF PHILADELPHIA, ss:

I, T. K. Finletter, presiding judge of the court of common pleas No. 3 for the county of Philadelphia, do certify that the foregoing record, certificate, and attestation, made by M. Russell Thayer, esquire, prothonotary of the said court, whose name is thereunto subscribed and the seal of the said court affixed, are in due form and made by the proper officer.

In testimony whereof I have hereunto set my hand this 8th day of March in the year of our Lord one thousand eight hundred and ninety-nine (1899).

T. K. FINLETTER,  
*President Judge Court of Common Pleas No. 3.*

[Inclosure 4.]

*Mr. Ridgely to Mr. Leishman.*

CONSULATE OF THE UNITED STATES OF AMERICA,  
*Geneva, June 3, 1899.*

SIR: I have the honor to inclose herewith the application of Jules Michot, a native citizen of the United States, for a passport for himself, and beg you to take his case into consideration at your earliest convenience.

In my opinion, the young man is a native citizen of the United States and is entitled to a passport. I myself wrote to Philadelphia for proof of his origin and secured the extract from the record of the court of common pleas No. 3, which I inclose herewith. He is a poor little fellow, but seems to be full of spirit and pluck, and I hope you will take a favorable view of his application.

I am, etc.,

BENJAMIN H. RIDGELY, *Consul.*

[Inclosure No. 5.]

*Mr. Leishman to Mr. Ridgely.*

UNITED STATES LEGATION,  
*Berne, Switzerland, June 5, 1899.*

SIR: Replying to your letter of 3d instant, inclosing an application of Jules Michot, I regret to say that unless the young man can furnish additional evidence in regard to the place of his birth I would not feel warranted in issuing a passport to him without first submitting the matter to the Department of State.

Of course I appreciate the difficulty of the young man in obtaining the information under the circumstances stated in the petition, but while it may be a fair presumption that a child found on the train between Philadelphia and New York at the tender age of 3 months was born in the United States it is not at all conclusive, especially as there is nothing to show that either the father or the mother were citizens of the United States. Young Michot is still under age and consequently can not be called upon to do military service in Switzerland for some months to come, so that he can not be inconvenienced very much by the delay, and if you are satisfied from your personal examination that the young man is really honest and sincere in his desire to return to the United States within a reasonable length of time I will submit the matter to the Department for decision.

Regretting that I can not see my way at present to grant the application,

I am, etc.,

JOHN G. A. LEISHMAN.

[Inclosure No. 6.]

*Mr. Ridgely to Mr. Leishman.*

CONSULAR SERVICE, UNITED STATES OF AMERICA,  
*Geneva, June 9, 1899.*

SIR: Replying to yours of the 5th instant relative to the application of Jules Michot for passport, I have the honor to request that you submit the application,

together with my letter and the record of the court, to the Department of State as you kindly propose to do in your communication above referred to.

The young man has in him the feeling and spirit of a native-born American boy and is sincere in his desire to return to the United States.

I am, etc.,

BENJ. H. RIDGELY, *Consul.*

[Inclosure No. 7.]

*Mr. Leishman to Mr. Ridgely.*

UNITED STATES LEGATION,  
*Berne, Switzerland, June 13, 1899.*

SIR: I am in receipt of your favor of the 9th instant, and in compliance with your request I will submit the application of Jules Michot, together with the papers in connection with the case, to the Department of State for decision.

Yours, etc.,

JOHN G. A. LEISHMAN.

*Mr. Hay to Mr. Leishman.*

No. 178.]

DEPARTMENT OF STATE,  
*Washington, July 12, 1899.*

SIR: I have to inform you that your dispatch, No. 155, of the 14th ultimo, submitting to the Department for its decision the application of Mr. Jules Michot for a passport as an American citizen, has been received. The nationality of the mother not being determinable in this case, since she is, like the father, an absolutely unknown quantity, the only question is, Was the applicant born in the United States? If he was, he is a citizen by right, and is, under our practice, entitled to our protection during his minority, wherever he may be, since no act of the parents or of anyone else can deprive him of the right conferred upon him by his birth.

The woman's petition to the court of common pleas No. 3, at Philadelphia, was so far accepted by the court that it granted her prayer and gave her the child in adoption. She swore that it had been left with her near Philadelphia when it was about three months old, and that she knew nothing of its parentage or place of birth. The applicant himself, however, thinks this woman is really his mother. This opinion, based upon years of filial association with her, is probably correct; but it is only an opinion, and need not disturb the presumption that the child was born in the country where its existence first became known. The applicant himself has always been led to believe that he was born in Philadelphia, and has taken oath accordingly. At any rate, your desire for additional evidence in regard to the place of birth is one palpably impossible of gratification. There can not be a record of the birth, as the child was either a foundling or the birth was concealed. The woman is on record as swearing her ignorance on the subject. The circumstances being as set forth in the papers, there would seem to be no escape from the presumption that the child was born in the United States and should accordingly be granted a passport.

I am, etc.,

JOHN HAY.

**PASSPORT APPLICATION OF EDWARD KLIPFEL, A NATURALIZED CITIZEN, WHO STATES THAT HE HAS NO INTENTION OF RETURNING TO THE UNITED STATES.**

*Mr. Leishman to Mr. Hay.*

No. 157.]

UNITED STATES LEGATION,  
*Berne, Switzerland, June 19, 1899.*

SIR: I beg leave to inclose herewith the application<sup>1</sup> of Edward Klipfel, a naturalized citizen of the United States, who states in his application that he has no intention of returning to the land of his adoption, in which case, under ordinary circumstances and according to the rules of the Department, I would feel compelled to refuse a passport; but as Mr. Klipfel resided sixteen years in the United States, having only left last June, and as his three minor children are native-born citizens, I deem it best to refer the case for your decision and await your further instructions in the matter.

I have, etc.,

JOHN G. A. LEISHMAN.

*Mr. Hay to Mr. Leishman.*

No. 177.]

DEPARTMENT OF STATE,  
*Washington, July 3, 1899.*

SIR: I have to inform you that your dispatch No. 157, of the 19th ultimo, in regard to the application of Edward Klipfel for a passport, has been received. In view of Mr. Klipfel's sworn statement that he has "no idea of returning to the United States," it is clear that he can not properly receive a passport. The Department's position on this point is well established and should be adhered to. He can not expect to receive the protection that a passport affords when he manifests no intention of performing the duties of a citizen of the United States. But this act of his does not deprive his children, who were born in this country and have been taken away by him, of their right to our protection until they reach their majority and may elect an allegiance of their own; and if you should be called upon to do so, you should recognize them as citizens of the United States.

I am, etc.,

JOHN HAY.

**PASSPORTS TO ELISE AND EMMA BERNOT, INFANTS, BORN IN UNITED STATES OF ALIEN PARENTS.**

*Mr. Leishman to Mr. Hay.*

No. 170.]

UNITED STATES LEGATION,  
*Berne, Switzerland, October 6, 1899.*

SIR: I beg leave to submit the question of the propriety of issuing a passport to Elise and Emma Bernot, aged 7 and 5 years, respectively.

These children, according to certificates issued by the board of health of Hoboken, N. J., were born in the United States of alien

<sup>1</sup> Not printed.



parents, although the grandfather, who resides in Berne, with whom the children are living, states that the father has taken out his first papers and is still living in the United States. It appears, however, that the parents have practically deserted the children, the father's whereabouts being unknown and the mother living an immoral life in Long Island, so that the grandfather is not only willing but anxious to keep the children, but experiences considerable trouble, as the Swiss authorities refuse to allow the children to remain without a passport, not recognizing them as Swiss, as the mother lost her right through her marriage, her husband being a German and a deserter from the army. Under these trying circumstances, the children having been born in the United States, I respectfully submit for your consideration the question whether protection can be afforded the children during their minority.

Awaiting your instructions, I have, etc.,

JOHN G. A. LEISHMAN.

*Mr. Hay to Mr. Leishman.*

No. 185.]

DEPARTMENT OF STATE,  
*Washington, October 24, 1899.*

SIR: I have to acknowledge the receipt of your No. 170, of the 8th instant, in regard to the case of Elise and Emma Bernot, aged 7 and 5 years, respectively, who, according to certificates issued by the board of health of Hoboken, N. J., were born in the United States of alien parents. You inquire whether protection can be afforded the children during their minority.

In reply I have to say that no principle is better settled than that birth in the United States, irrespective of the nationality of the parents, confers American citizenship. Upon the facts stated, therefore, these girls are citizens of the United States, and as such are entitled to passports and the protection of this Government.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Leishman.*

No. 186.]

DEPARTMENT OF STATE,  
*Washington, October 26, 1899.*

SIR: Supplementing the Department's No. 185, of the 24th instant, you are informed that the children Elise and Emma Bernot, being too young to understand the nature of an oath, the application for passports in their behalf may be made by their guardian.

I am, etc.,

JOHN HAY.

**PASSPORT, REFUSAL OF LEGATION AT BERNE TO ISSUE, TO  
FRED. KNECHTENHOFER.**

*Mr. Leishman to Mr. Hay.*

No. 180.]

UNITED STATES LEGATION,  
*Berne, Switzerland, November 24, 1899.*

SIR: I beg leave to lay before you the case of Mr. Fred. Knecht-hofer, who applied for a passport through the consul of Berne, which,

after carefully considering, I decided to refuse, and if the reasons for refusal appear sound and logical and the decision meets with your approval, I would like to place same on record at this legation as a guide for the future, as the question at issue refers more particularly to Switzerland, as it involves the vexed question of dual citizenship.

The circumstances of the case are as follows: The said Fred. Knechtenhofer was born in Switzerland in the year 1873, emigrating to the United States in 1893, soon after he had passed the twentieth year, and shortly before reaching his majority, when he would be subject to military service. Promptly on arriving at 21 he made application to become naturalized, and on 19th September, 1899, was granted his certificate as an American citizen by the court of Buchanan County, at St. Joseph, Mo., and within one month after receiving his papers he left the United States, sailing on the steamer *Westernland*, on the 18th October, 1899, in order to return to his native land, where he is now living with his father.

Upon examining the application it appeared to me that this was one of the many cases where American citizenship was obtained merely as a convenience, to be used as a cloak to shield the individual from his obligations at home, without incurring any new, and at the same time conserve his right as a Swiss citizen, which can only be lost by the voluntary act of the individual in the manner prescribed by law. I thereupon instructed the consul to propound the following questions to the young man:

First. Whether he had resigned his Swiss citizenship in the manner prescribed by law; and, second, whether he was willing to make a special affidavit declaring his bona fide intention of returning to the United States in order to reside there and perform the duties of a citizen. His reply to the first question was, that he had not renounced his Swiss citizenship, and, upon being pressed further, admitted that it was not his intention to do so. Regarding the second question, he evidently had no intention of returning to the United States, having looked on the statement in application of his intention to return within two years as a matter of form, as he stated that it was his intention to remain with his father and help him work the farm. Now, the granting of a passport under above conditions, which the prima facie evidence which is ordinarily demanded would warrant, might, in the event of the Swiss Government calling on the party to perform military service, cause the Government of the United States considerable annoyance, and consequently I respectfully submit the following questions, i. e.:

On account of the peculiar conditions which exist in Switzerland, is the minister warranted in refusing a passport to a native-born Swiss who returns to the country of his birth after acquiring American citizenship, unless he can clearly show that he has formally renounced his Swiss citizenship in the manner prescribed by law, which every Swiss is thoroughly familiar with; and further, as a matter of fact, can a Swiss who, in order to become a citizen of the United States, must, when taking the oath of allegiance, first renounce allegiance to any foreign power, especially to the land of his birth—can he, without false swearing and thus obtaining his certificate of naturalization by fraud, be considered a bona fide citizen of the United States as long as he conserves his Swiss citizenship, which he well knows he can not lose except by his own act in formally renouncing same?

Awaiting your advice and instructions, I have, etc.,

JOHN G. A. LEISHMAN.

*Mr. Hay to Mr. Leishman.*

No. 190.]

DEPARTMENT OF STATE,  
*Washington, December 12, 1899.*

SIR: I have to acknowledge the receipt of your No. 180, of the 24th ultimo, reporting your refusal to issue a passport to Mr. Frederick Knochenhofer, the circumstances of whose case are as follows: He was born in Switzerland in 1873; came to the United States in 1893, soon after he had passed his twentieth year and shortly before reaching his majority, when he would be subject to military service; was naturalized in the United States on September 19, 1899; left the United States within one month thereafter, when he returned to his native land, where he is now living with his father. In answer to inquiries put to him he admitted that he had not renounced his Swiss citizenship and did not intend to do so, and had no intention of returning to the United States to live.

Under the circumstances cited, the Department approves your action in refusing him a passport.

You ask advice on the following points:

1. Are you warranted in refusing a passport to a native-born Swiss who returns to the country of his birth after acquiring American citizenship, unless he can clearly show that he has formally renounced his Swiss citizenship in the manner prescribed by Swiss law?

In reply to this I have to say, that the laws of the United States do not require the consent of the government of the alien's origin or a compliance with the laws of such country relative to renunciation of allegiance as a prerequisite to naturalization here. You would, therefore, not be justified in making it a condition to the issuance of a passport that the applicant shall show that he has formally renounced Swiss citizenship in the manner prescribed by Swiss law.

2. "Can a Swiss who, in order to become a citizen of the United States, must, when taking the oath of allegiance, first renounce allegiance to any foreign power, especially to the land of his birth—can he, without false swearing and thus obtaining his certificate of naturalization by fraud, be considered a bona fide citizen of the United States as long as he conserves his Swiss citizenship, which he well knows he can not lose except by his own act in formally renouncing same?"

This is in effect, can a person who obtains his certificate of naturalization by fraud be considered a bona fide citizen of the United States? Naturalization being a judicial act, there is no authority on the part of the executive to declare that a naturalized citizen of the United States is not a citizen because of fraud in the procurement of his citizenship. That can only be determined judicially by a competent court of the United States. But this does not interfere with the exercise of the discretionary power vested in the Secretary of State in the matter of granting passports and protecting American citizens abroad, and the Department's standing rule is to withhold a passport from any holder of naturalization papers found to have been obtained by fraud.

I am, etc.,

JOHN HAY.

## TURKEY.

### NEGOTIATIONS FOR THE SETTLEMENT OF INDEMNITY CLAIMS OF UNITED STATES CITIZENS.

*Mr. Straus to Mr. Hay.*

No. 28.]

LEGATION OF THE UNITED STATES,  
*Constantinople, December 12, 1898.*

SIR: On the 9th instant I telegraphed you in cipher as follows:

Had a satisfactory audience. The Sultan has directed the indemnity to be arranged, and sends compliments to the President.

The question of the payment of indemnity has had my constant attention since the settlement of the Erzerum consulship and the removal of the obstacles against traveling in the interior, reported in my dispatch No. 21, of 16th November. I have had numerous conferences with the minister of foreign affairs, and he drew up a report to the council of ministers based on these conferences and upon the memorandum I submitted covering the claims paid by us growing out of the lynching of the Italians by the New Orleans mob and the massacre of the Chinese in Rock Springs, Wyoming.

This report, as the minister informed me, recommended the payment of our claim when adjusted as to the amount, and that the council of ministers adopted the report and submitted the subject for the approval of His Majesty. It was by the Sultan referred back to the council, and about ten days ago again submitted to His Majesty. There the matter rested.

On the 7th instant I sent our dragoman, Mr. Gargiulo, to the palace with an unofficial memorandum to be left with the Sultan's first secretary for communication to the Sultan. In this memorandum I suggested the advisability for a private audience.

I was summoned to an audience by His Majesty on Friday last, the 9th instant. He received me, as is his custom, in his usual pleasant manner, and informed me the matter discussed between his first secretary and Mr. Gargiulo, referring to our claim, he had directed to be arranged, and that all the other matters pending he would assist me in adjusting. I explained to him the situation, and that it was my hope when I was appointed to this mission to avoid making issues, but to adjust the pending questions so that all irritation be removed and that the relations between the two countries be, as they always should be, in entire harmony and friendship. He said my former mission gave him every assurance of that, and therefore he was so much gratified when he learned of my appointment.

\* \* \* \* \*

The audience lasted about three-quarters of an hour, and again at the conclusion he said he had directed the matter of my demand to be settled, and requested me to give his best compliments to the President.

On the following day I called on the minister of foreign affairs, and

he again recounted to me the steps that had been taken regarding our claim. I told him of the audience, and that His Majesty had twice informed me that he directed our claim to be settled.

\* \* \* \* \*

It will doubtless yet require some time and considerable effort to conclude the indemnity negotiations and have the amount paid over, yet the important point has been gained. Our claim is now admitted by the Sultan and the council of ministers and directed to be liquidated.

This is a decided reversal of the absolute refusal contained in the Porte's note of August 4, 1898, transmitted in Mr. Angell's dispatch No. 168, of August 4, 1898, being identical with the Porte's note to the other powers. \* \* \*

I have, etc.,

OSCAR S. STRAUS.

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*Mr. Straus to Mr. Hay.*

No. 52.]

LEGATION OF THE UNITED STATES,

*Constantinople, February 28, 1899.*

SIR: I let no opportunity pass to press the indemnity negotiations, which have to be carried on with the Palace as distinguished from the Porte.

\* \* \* \* \*

In answer to my statement that my Government certainly expects that no unusual delay shall take place in fulfilling the Sultan's promise to liquidate the indemnity, of which I had advised my Government by telegraph, the Sultan's secretary stated to our interpreter His Majesty requested him to say he had ordered the liquidation and payment and it would be made.

Yesterday our interpreter, Mr. Gargiulo, went again to the Palace, and the secretary, after consulting the Sultan, stated that it had been fully decided to buy a cruiser in America, and arrangements were being made through bankers in Paris for the installment payments prior to concluding the contracts, and that I would be informed as soon as these arrangements are concluded, which will be in a short time.

The secretary then said he was requested by the Sultan to ask me to telegraph my Government the result of the recent experiments with dynamite guns, with a view if they have proved satisfactory he purposed to arrange for the arming of the cruiser with such guns.

I understand negotiations of a similar kind are in contemplation and in progress with other countries whose governments have preferred indemnity claims. \* \* \*

I have, etc.,

OSCAR S. STRAUS.

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*Mr. Hay to Mr. Straus.*

No. 97.]

DEPARTMENT OF STATE,

*Washington, March 25, 1899.*

SIR: I have to acknowledge the receipt of your dispatches Nos. 45 and 52, of the 8th and 28th ultimo, respectively, on the subject of our indemnity claims against Turkey. The former dispatch deals especially with the Lenz claim.

The Department approves your plan to settle for a lump sum all

outstanding claims against the Turkish Government in favor of American citizens, and that the same be afterwards equitably apportioned by this Government among the parties justly entitled to share therein.

It seems desirable that this lump sum should be fixed with reference to the final settlement of all such claims, having in view the reasonable amounts thereof, in order that there may be no just ground for complaint that any discrimination has been made in favor of any claimant or class of claimants to the neglect of others equally deserving. Nevertheless you are authorized to act according to your discretion and judgment as to the best mode of procedure and having the most promise of success, either by collecting a lump sum in settlement of all such claims or of a portion of them only, and proceeding by the ordinary method for the collection of the residue. If the lump sum is fixed upon, it should be attended with a statement of the names of the claimants and the nature of the claims embraced in such settlement.

The Department appreciates the force of your observations on the Frank Lenz claim and the hazards of the journey he took. If his murderers had been duly punished, this Government would not have felt disposed to demand the payment of an indemnity. The evidence showed a deliberate, premeditated murder, yet the judgment was rendered against the murderers as for "murder without premeditation," under the 174th section of the criminal law. And even this penalty was not actually inflicted, for the guilty parties escaped.

It is hoped, in view of the enormity of the offense and the miscarriage of justice, that the Turkish Government will pay a reasonable indemnity.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Straus.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 11, 1899.

What progress is being made in settlement of indemnity claims on basis of the Sultan's promise reported in your telegram of December 9 and your No. 28, of December 12 last year? The President relies implicitly upon His Majesty's assurances and confidently expects an early adjustment will be reached, as the matter is urgent. Settlement should include all outstanding claims. See my instructions March 25.

HAY.

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[Confidential.]

*Mr. Straus to Mr. Hay.*

No. 73.]

LEGATION OF THE UNITED STATES,  
Constantinople, April 28, 1899.

SIR: On the 12th instant I received your cable in cipher, which is appended on the overleaf.<sup>1</sup>

The subject of the indemnity claims has my constant attention.

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<sup>1</sup> Printed supra.

When the telegram was received, the second Bairam, or Turkish Easter, was near at hand, so I thought it best to delay until Bairam was over, so as to use it with better effect. On yesterday I communicated the substance of the telegram, through our interpreter, to the Sultan's secretary. \* \* \* This communication followed in the line and in the train of my previous repeated urging of the matter. As reported in my former dispatches, I find no disposition on the part of His Majesty to escape from his promise to arrange the matter, his purpose being to couple the settlement with some contracts for cruisers or guns, as reported in my dispatch No. 52, of February 28.

\* \* \*  
I trust you will not regard me too sanguine respecting the prospects; I am reporting the facts as they develop, and I fully realize nothing definitely should be predicated until the end is reached. I shall endeavor to include as many of the outstanding claims as possible, and under instruction No. 97, of March 25, I will take care to specify such as may be included.

As you have left the subject to my discretion, I shall endeavor to use it wisely. \* \* \*

I have, etc.,

OSCAR S. STRAUS.

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*Mr. Hay to Mr. Straus.*

No. 118.]

DEPARTMENT OF STATE,  
*Washington, May 13, 1899.*

SIR: I have to acknowledge the receipt of your confidential dispatch No. 73, of the 28th ultimo, containing an additional report on the subject of the claims of American citizens against Turkey.

Your action in the matter is approved by the Department, and the energy and intelligence with which you are pressing for a settlement are commended.

I am, etc.,

JOHN HAY.

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*Mr. Straus to Mr. Hay.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Constantinople, July 25, 1899.*

Before the Turkish minister leaves impress upon him the imperative necessity prompt payment indemnity according to Sultan's promises last December.

STRAUS.

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*Mr. Straus to Mr. Hay.*

No. 112.]

LEGATION OF THE UNITED STATES,  
*Constantinople, September 23, 1899.*

SIR: I have the honor to submit a report of what has been done in the indemnity negotiations. \* \* \*

I received Acting Secretary Adees's cipher telegram of August 15,

as confirmed in his instruction of the 18th id., and desire to express my thanks for your approval of the suggestions I had the honor to make with a view of expediting the negotiations.

Upon the receipt of your telegram I sent our interpreter to the palace to say to the Sultan's first secretary that I desired an audience with His Majesty. His Majesty sent word inquiring about the nature of the communication; which information was given. Upon which he sent reply he would see me shortly, as soon as the matter of the claims were arranged for.

\* \* \* \* \*

My unofficial requests for an audience having been put off under various pleas, I decided to make an official request, and accordingly, on the 24th of August, I sent a note to the minister for foreign affairs, a copy of which is attached. In this note I set out officially and distinctly the promise, so that if there should be any disposition to deny the promise I would immediately hand in my proposal for arbitration. In the meantime I saw the minister for foreign affairs several times, and our interpreter, Mr. Gargiulo, saw the Sultan's secretary, and they both stated the payment would be made, and that the Sultan was anxious to have the matter settled in advance of an audience so that the audience would be agreeable to us both.

This phase of the negotiations continued for several days, and, not receiving an answer to my note, I addressed, on September 2, a second note to the minister for foreign affairs, directing attention that my former note had not been answered, a copy of which is attached. I also called on the minister for foreign affairs and impressed upon him the gravity of the situation. He said he was aware of it and that the Sultan had directed him to say that he had issued an irade to the minister of marine to purchase a war ship from an American builder, and that the kind of ship was being decided upon from the drawings and catalogues in hand, and that certainly within a month or two the matter would be closed and at the same time our claims paid.

Such being the status, I have not made the proposal for arbitration as originally planned.

The circumstances were different when I first took up the negotiations, as will be seen by reference to the last reply Dr. Angell received from the Porte, which was a categorical denial of all liability on the part of the Ottoman Government and concluded with a refusal to pay (see his dispatch No. 168 of August 4, 1898).

I have pushed the negotiations with all possible energy. I have laid stress on the seriousness of the situation, His Majesty making a promise more than nine months ago, which I reported promptly to my Government, and the fact that this promise still remained unfulfilled.

On Friday, the 15th instant, while at Selamlık, the chamberlain came to convey to me His Majesty's greetings. His chamberlain reported my message and brought back the Sultan's answer that he would appoint a day for audience; that his object was to arrange the matter of claims in advance, so the audience would be mutually pleasant; that he had directed the minister for foreign affairs to reply to me, so that at the audience I need not bring up the question. He also sent word through the minister for foreign affairs that he had the highest esteem for me personally and officially, and I should not construe the delay in appointing the day of audience in any other light than a desire on his part to have the claims paid or the payment



arranged for, and that at an early day he would be pleased to receive me.

On the 19th instant the minister for foreign affairs informed me His Majesty would receive me in audience on Friday, the 22d instant, after the ceremony of Selamlik.

I accordingly attended on Friday last and had an audience of over an hour's duration, of which I will briefly give a summary.

He opened the conversation by saying, as the minister for foreign affairs had by his direction informed me, the irade for the purchase of a war ship in America had been sent to the minister of marine, and with the making of the contract the American claims would be paid, or, literally translated, "wiped out," and that he would request me not to discuss with him this matter further, as it is arranged for. \* \* \*

I did not directly go further into the subject, but asked what answer I should give my Government as to when these claims would be "wiped out" and when the irade for the rebuilding of the Harpoot school buildings would be given. He replied, as soon as the contract for the ship was concluded, which would be done shortly, just as the minister for foreign affairs had stated to me.

The minister had stated a few days previously the contract would be made inside of a month or two. \* \* \*

He said he appreciated my efforts to bring about those good relations between our two countries the same as I had done during my former mission. I replied yes, that was my aim, but I needed his cooperation. He replied he would certainly do all in his power; that as a matter of fact there were only two questions pending, the claims, which would, as he stated, be "wiped out;" that as to the treaty he could not consent to that, which would give the Armenians who were plotting against him protection on their return here. That he had no objection to all Armenians going to America, and in fact if they had not money to pay their passage he would pay the passage for them, but on the condition never to return to Turkey; that he regarded their going to America and returning here, claiming American protection, as a fraud upon his country, and if any of his ministers were weak enough to yield this point he would dismiss them all.

Having referred to this subject, he said immediately following my audience with him \* \* \* he telegraphed to Mecca, it being the time of the annual pilgrimage, his wishes that the Moslems in the Philippines should not war with the Americans, nor side with the insurgents, but should be friendly with our army, and that, as I assured him (the Sultan), the Americans would not interfere with their religion and would be as tolerant toward them as he was toward the Christians in his Empire. He added there was at Mecca at the time he sent that message quite a number of pilgrims from the Pacific Islands, and especially their most prominent general and several other officers, and shortly thereafter they returned to their homes. That he was glad that there had been no conflict between our army and the Moslems, and that he certainly hoped their religion would in no manner be interfered with.

I replied, of this he could certainly feel satisfied, that religious liberty was the chief corner stone of our political institutions. He added he hoped his friendly spirit toward my country would be understood.

I have strong hopes that our indemnity claims will be paid, especially now that we have the Sultan's promise made and repeatedly confirmed. But when, I am unable to answer. It will require time, patience, and tactful pressure. The other extreme, the show of force,

which too often by untoward circumstances leads to the most serious consequences, I certainly would not recommend. Our entire claims growing out of the Armenian troubles, as formulated, are \* \* \* 19,209 Turkish pounds. The principle of our demand has been admitted by the promise to pay, made by the Sultan and repeatedly confirmed. The present state of Turkish finances is deplorable, the salary of civil and military officials are from nine to twelve months in arrears, and nearly all of the tangible sources of revenue have been conceded or pledged for advance loans.

In other words, I think I can say I have succeeded in getting judgment on our claims; the question of waiting until the debtor can pay or of enforcing execution is one I must leave to you for decision.

This much I will add in conclusion: The other countries having like claims, such as England, France, Germany, and Italy, have not yet had their claims in judgment, the Sultan has refused to recognize them, nor has he promised to pay them.

I shall be pleased to receive any instructions you may have to give in this matter, to which I have given my best thought and attention.

The minister for foreign affairs informs me within two months his Government will receive about one-half million liras or pounds upon the conversion of one of her loans, and that part of this money will be applied to the purchase of the ship in question, and for other naval equipments.

I have, etc.,

OSCAR S. STRAUS.

[Inclosure 1.]

*Mr. Straus to His Excellency Tewfik Pasha.*

UNITED STATES LEGATION,  
Constantinople, August 24, 1899.

EXCELLENCY: On Wednesday the 16th instant I received instructions from my Government that the President of the United States desires that I have an audience with His Imperial Majesty the Sultan, in order to convey in person to His Imperial Majesty an important communication from the President. On the same day our interpreter under my instructions went to the palace and communicated my request to His Majesty's first secretary, His Excellency Tahsin Bey. His Majesty inquired whether the communication the President desired me to deliver was personal or of a governmental nature. Our interpreter referred the inquiry to me, and on the following day our interpreter went to the palace with a written outline of the subject-matter, which he translated to His Excellency Tahsin Bey, to the effect that the subject of the communication refers to the American claims for indemnity and to His Majesty's promise for payment made in December last, and to the expression of hope on the part of the President that the fulfillment of this promise would not be further postponed, together with other instructions in reference to this subject.

In reply to this statement His Majesty sent word to our interpreter that the matter of our claim for indemnities was in the hands of the council of ministers, and it would submit its report on Sunday the 20th instant, and that a reply would be sent to me by Your Excellency on Monday the 21st instant. On that day I called on Your Excellency and fully explained the circumstances above set forth, and you informed me no directions in the matter had reached you and that you could give me no reply, but that you would report the same to His Majesty and inform me the following day when His Majesty would receive me in audience. The following day being the 22d instant, our interpreter called upon you for the reply, but you were still waiting for His Majesty's orders.

This being the 24th instant, and eight days having elapsed since I communicated the President's desire that I should have an audience with His Imperial Majesty, and no answer having reached me, I can not but interpret the action of His Majesty other than as a disposition not to accord me an audience as desired by the

President in order to lay fully and in detail before him the communication which I was instructed to deliver in person.

In view of all circumstances I feel constrained to promptly advise my Government of this situation.

Your Excellency, I trust, will agree with me when I state that since my return here as minister I have used every effort consistent with my duties to avoid unpleasant situations and to bring about an harmonious adjustment of the questions menacing the good relations between our two Governments. I certainly expected the desired end had been attained when, in December last, His Majesty made to me the statement that the matter of the indemnity was arranged and that payment would be made, which statement has again and again been repeated in form and in substance on behalf of His Imperial Majesty by his first secretary. During more than eight months my Government, relying on His Majesty's solemn promise, has been waiting for its fulfillment.

Accept, etc.,

OSCAR S. STRAUS.

[Inclosure 2.]

*Mr. Straus to His Excellency Tewfik Pasha.*

UNITED STATES LEGATION,  
*Constantinople, September 2, 1899.*

EXCELLENCY: On the 24th of August I addressed a note to Your Excellency that I had on the 16th of August received instructions from my Government that the President of the United States desired that I have an audience with His Imperial Majesty the Sultan to convey in person to His Imperial Majesty an important communication from the President.

I deem it my duty to remind Your Excellency that I have not received a reply to my note.

Accept, etc.,

OSCAR S. STRAUS.

*Mr. Straus to Mr. Hay.*

No. 136.]

LEGATION OF THE UNITED STATES,  
*Constantinople, December 20, 1899.*

SIR: With reference to the indemnity negotiations, I have the honor to submit the following report prior to my departure on leave:

\* \* \* \* \*

Before my departure I have deemed it best to address an emphatic note to the Porte to impress the promises of the Sultan, to recount the various delays that have taken place, by bringing to the attention of the minister for foreign affairs and through him to the Sultan that my Government insists upon the fulfillment of the Sultan's promises for the payment of the indemnities; and at the same time to indicate the gravity of the situation. A copy of the note is attached.

England's claims for indemnity growing out of the Armenian troubles are three times as large as ours; Italy, France, and Germany also have like claims; none of these claims have been paid, nor have they even obtained a promise for payment.

For several months past my colleagues having similar claims have suspended or abandoned the hope of collecting their claims, but through their sources of information our efforts are watched with a view if we succeed their claims will also have to be paid.

The British ambassador expects to collect his claim through the conversion of the loan covering the Cyprus tribute; the terms of this conversion were practically arranged last spring, but the negotiations fell through because the Sultan refused to allow the British indem-

nity claims. It is hoped, however, at some distant future the Sultan will consent, in view of his great need for the additional ready cash this conversion will yield in ready money, about £600,000.

The French, so far as I can learn by careful inquiry, are not doing anything in that direction, nor are the Italians.

The German claims are not significant, only £2,000 or £3,000; the ambassador told me recently he refrains from referring to Armenian matters or anything connected therewith. \* \* \*

This fact, together with the belief, held to for some years, that our missionaries were at the bottom of the Armenian troubles, or at any rate indirectly connected with the unrest that brought about the troubles, has rendered my task an exceptionally difficult one. I have again and again argued the matter to disabuse the Sultan's mind of this belief; I have again and again cautioned the missionaries to guard against giving color to this suspicion, and I have perhaps not argued in vain, as the Sultan's secretary and the Grand Vizier have shifted their ground, and now say they do not claim the American-born missionaries are guilty of hostility, nor that our Government would permit them to act in a spirit of hostility to Turkey, but that our missionaries have in their employ many Armenian teachers who plot against Turkey.

I feel considerable disappointment that, after having brought the negotiations to the point of obtaining the Sultan's promises for the payment, not to have closed the matter before my departure. The question is no longer one of international law, nor of disputed liability, but rests upon the Sovereign's promises to pay. To use the analogy of a civil suit, the situation is, twelve months ago we obtained judgment, but the execution still remains unsatisfied.

It is to be hoped the Sultan will recognize the position, and the necessity of fulfilling his promises.

With that view, and for the purpose of setting forth our position in as emphatic a manner as possible, I sent the note in question, especially as the permit for the reconstruction of the destroyed buildings at Harpoot, after having been definitely promised from day to day, both at the Porte and by the Sultan, through his first secretary, has not yet been given.

There is certainly no excuse for withholding that permission, for which I have been pressing for the past ten months. The matter passed successfully through every stage; first a report from the vali at Harpoot, then through the council of state, then through the council of ministers, then it went to the Sultan. I followed the matter with the utmost persistency through all these stages. About three weeks ago the Sultan made an irade again referring it to the council of ministers for some additional information, and the matter again went to the Sultan. Ten days ago it was definitely stated by the first secretary, speaking for his Sovereign, that the Sultan had decided to issue the irade, and that our interpreter should call at the palace the following day, where it would be given. The irade is still not given.

I wrote the foregoing yesterday, and now add in conclusion: The purpose of my note seems to have the effect intended in order to break through the inertia and present the issue in a forcible light.

I regard it quite probable that the irade for rebuilding will be given either on my departure or shortly thereafter in anticipation of my return.

\* \* \* \* \*

I am again assured by the Porte that a ship will certainly be purchased and the indemnities paid off.

I have, etc.,

OSCAR S. STRAUS.

P. S.—Our interpreter has just returned from the minister for foreign affairs and reports the minister states that the Sultan has granted the irade for the reconstruction of the school and college buildings at Harpoot, which irade will be communicated to the grand vizier to-day or to-morrow; that the Sultan had further directed all outstanding questions regarding American schools to be settled.

The minister further stated the Sultan said he would like very much to see me in audience before my departure, but he has contracted a sore throat, and if I would remain some days longer he would be pleased to see me. Our interpreter explained that as I am traveling with wife and children, and all arrangements had to be made in advance, it would be difficult to postpone my departure to an indefinite time, and the minister stated he appreciated that, and certainly the Sultan would excuse my not delaying my journey.

While writing this I am interrupted by the chamberlain of the Sultan, who comes by His Majesty's order to express his esteem for me and to bring as a souvenir two vases manufactured at the imperial pottery at the palace. I expressed my high appreciation for this mark of personal esteem, but explained, with all possible delicacy, why, under the regulations, I could not receive them. He expressed the Sultan's high esteem and personal regard for me, and that the Sultan directed him to convey his great appreciation of my fairness and impartiality in all my diplomatic work, and at the same time his urgent wish that I should soon return. This and much more was said of a like tenor.

I report this in detail so that the entire facts may be before you.

I have, etc.,

OSCAR S. STRAUS.

[Inclosure.]

*Mr. Straus to Tewfik Pasha, minister for foreign affairs.*

LEGATION OF THE UNITED STATES,  
Constantinople, December 16, 1899.

EXCELLENCY: In the month of November, 1895, during the conflicts that were taking place in the Empire, which were the cause of so much horror and bloodshed, the American school and college at Harpoot suffered much loss and damage by reason of the burning and destruction of eight separate buildings, with their contents. The subject of this loss and destruction has again and again been presented, under urgent instructions from my Government, by my two predecessors, Judge Terrell and Mr. Angell.

On my arrival here in October, 1898, following the instructions of my Government, I presented the matter anew, and on December 9, 1898, His Majesty promised me to pay or "wipe out" the claim for losses sustained by our citizens at Harpoot, Marash, and Haskeui. This promise was again repeated by His Majesty at the audience granted to me the 22d of September last.

With a view of "wiping out" the claims, I was informed, shortly after the audience aforesaid, by His Majesty's first secretary, in frequent statements made by him to Mr. Gargiulo, our interpreter, that negotiations were under way at Paris for a loan, out of which His Majesty intended to buy an American-built cruiser, and in connection therewith the indemnity claims would be paid.

\* \* \* \* \*  
I again and again explained to your excellency, and through our interpreter to

His Majesty's first secretary, that my Government had no concern with such purchases, but certainly relied upon His Majesty's promises and would insist upon compensation for the losses aforesaid.

The destruction caused at Harpoot was under the very eyes and with the help of the imperial troops.

As I have fully explained in previous communications, cannon shells were fired into the buildings, and certainly the Armenians had no cannons; hence there is but one evident conclusion. Besides, there is ample evidence upon this point.

\* \* \* \* \*

I need not say that my Government has been patient. \* \* \* It is not for me to anticipate what action my Government may decide upon in order to safeguard and protect the rights of its citizens in this Empire. I purpose, in accordance with my Government's wishes, to return home for consultation and to leave here on December 20.

The situation is aggravated by another fact, the refusal to grant the permission to reconstruct the destroyed buildings at Harpoot, after frequent delays and assurances that permission would be given under His Majesty's irade.

Our interpreter was officially informed by the Sublime Porte that His Majesty would not consent to the rebuilding, as the American missionaries were the cause of the Armenian troubles.

It becomes my imperative duty to emphatically protest against this accusation, and to say that my Government, following its traditional policy, has always kept aloof from political questions in foreign countries and jealously guards against its citizens involving it in such complications.

During my residence here, I have been careful to advise and instruct American citizens in accordance with my Government's instructions, and I feel justified in stating that His Majesty is grossly misinformed if he believes my Government would permit or consent that its citizens act in a spirit of hostility to the constituted authorities of this Empire.

In view of these false accusations prejudicial to the rights of American citizens in this Empire, and in view of the delay in compensating our citizens for property burned and destroyed, and in view of the Imperial Government profiting by its own wrongs by refusing to permit the reconstruction of the Harpoot buildings, your excellency will doubtless agree with me that the situation is grave, that before my departure the promised irade for rebuilding should be unconditionally issued, and that definite provisions for the payment of the indemnity claims should be made, thereby avoiding a condition which may have serious consequences affecting the good relations of our respective countries.

Accept, etc.,

OSCAR S. STRAUS.

## VENEZUELA.

### COURTESIES SHOWN BY VENEZUELAN OFFICIALS TO NORTH ATLANTIC SQUADRON.

*Mr. Loomis to Mr. Hay.*

No. 249.]

LEGATION OF THE UNITED STATES,  
*Caracas, March 9, 1899.*

SIR: I have the honor to suggest that if the North Atlantic Squadron under Admiral Sampson is to call at La Guaira, as the published itinerary indicates, it would produce a very excellent effect here if a number of the officers were to come to Caracas to call upon the President.

I take the liberty of making this suggestion for the reason that when the Italian squadron was here late last autumn a large number of its officers came with the commander to call on President Andrade, and took pains to create a pleasant impression upon the Venezuelans. At present the most active competitors of the Americans in Venezuela in large financial and business enterprises are the Italians, and I should be glad to see the visit of our ships made as effective as possible.

I found, too, in my recent visit to Guanta, on the U. S. S. *Wilmington*, that an Italian man-of-war had been there a few weeks before and landed 200 men and had them go by special train to Barcelona to participate in a street parade, an incident which seems to indicate that the Italians are taking unusual pains to build up their influence here.

I have, etc.,

FRANCIS B. LOOMIS.

*Mr. Loomis to Mr. Hay.*

No. 260.]

LEGATION OF THE UNITED STATES,  
*Caracas, March 26, 1899.*

SIR: The President and the minister of foreign affairs of Venezuela have asked me to inform them if the squadron of United States naval vessels under the command of Rear-Admiral Sampson is likely to call at La Guaira soon.

I have been able to give them no more information than is conveyed in current newspaper rumors, which, as they reach us here, are very conflicting as to dates.

I have an impression, not based on any direct statement, however, that some persons connected with the Venezuelan Government contemplate a reception or some kindred function in honor of the American squadron; hence it would, I am sure, be appreciated much if the Navy Department were to communicate to this legation, as soon as possible, some definite information respecting the advent of the fleet at La Guaira, if it is expected to send it to that port.

I have, etc.,

FRANCIS B. LOOMIS.

*Mr. Hay to Mr. Loomis.*

No. 248.]

DEPARTMENT OF STATE,  
*Washington, April 3, 1899.*

SIR: I have to acknowledge the receipt of your No. 249, of the 9th ultimo, suggesting that if the North Atlantic Squadron should come to La Guaira it would be advisable for a number of the officers to call on the President of Venezuela at Caracas.

In reply I have to say that a copy of your dispatch was forwarded to the Navy Department, which has, as I am advised, transmitted it to the commander in chief United States naval forces, North Atlantic Squadron.

I am, etc.,

JOHN HAY.

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*Mr. Loomis to Mr. Hay.*

No. 263.]

LEGATION OF THE UNITED STATES,  
*Caracas, April 10, 1899.*

SIR: I have the honor to report that the North Atlantic Squadron of the United States Navy, commanded by Rear Admiral W. T. Sampson, arrived at La Guaira on the morning of April 4, and departed about 7 o'clock in the evening on the 7th of the same month.

The morning after his arrival at La Guaira, Admiral Sampson, accompanied by his staff and commanding officers, came to Caracas and were the guests of the legation till the time of their departure on the following Friday.

I informed the Venezuelan Government that Admiral Sampson's squadron had come to Venezuelan waters on a friendly visit, and the minister of foreign affairs at once sent the inclosed reply.

The secretary of legation called upon Admiral Sampson very shortly after his arrival and gave him the essential information concerning the port and port officials and tendered him and his staff the hospitality of the legation.

The Venezuelan Government and people evinced the most friendly interest in Admiral Sampson and seemed sensible of the compliment which the visit of his ships implied. President Andrade lost no opportunity to show his kindness and friendly interest. He sent the "state carriage" to the station to convey Admiral Sampson to the legation and had the minister of war and marine there to meet him on the arrival of the train as his personal representative. Later, President Andrade gave an elaborate dinner at the "Yellow House" in honor of Admiral Sampson and his officers, and a beautiful ball under his direction was arranged and given at the Union Club.

President Andrade frequently sent his private carriage to the admiral, and indicated his good feeling by a score of charming courtesies.

Among the many entertainments organized for the American naval officers I desire to mention a garden party given by the British minister to Caracas, Mr. W. H. D. Haggard, at his residence in this city. It was a very delightful function, and one much enjoyed by Admiral Sampson and the officers who accompanied him. The cordial good feeling which prompted the British minister to offer this hospitality was sincerely appreciated.



On Friday morning the President of Venezuela, accompanied by his cabinet and many officers of the Venezuelan army, went on a special train to La Guaira to visit the squadron. Admiral Sampson had a coach for his own use on the same train.

The President visited the flagship and a salute of twenty-one guns was fired by each ship in the squadron. After inspecting the ship and lunching with the admiral, the battle ship *Indiana* was visited by the President and his party. The visitors were deeply impressed with the ships and artillery, and with the display of machine gun and rapid fire work which was performed for their diversion.

The ships during their stay at La Guaira were visited by large number of people, and when Admiral Sampson drove to the Yellow House to be officially received by the President, thousands of people lined the streets. The official reception was a very imposing and beautiful ceremony. A thousand troops presented arms when the admiral appeared, and the President's band played "Hail Columbia," which is always assumed to be our national air.

The visit of Admiral Sampson was in every way a happy and interesting and impressive event.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure.]

*Mr. Mathieu to Mr. Loomis.*

MINISTRY OF FOREIGN AFFAIRS, UNITED STATES OF VENEZUELA,

*Caracas, April 4, 1899.*

YOUR EXCELLENCY: On learning of the arrival at La Guaira of the United States squadron, I communicated the pleasant news to the President of the Republic, who having learned from your excellency's note of the desire expressed by Admiral Sampson, has arranged to receive him at the "Yellow House" to-morrow afternoon at 4 o'clock.

The visit of these distinguished sailors of the North American Republic is viewed by the Government as well the people of Venezuela with the greatest satisfaction, as the friendly relations between the two countries are becoming closer day by day, and nothing could be more gratifying than the ratification of this friendship by such distinguished guests.

The steps which your excellency asks to have taken to facilitate the arrival in Caracas of the officers of the squadron will be immediately attended to.

I renew, etc.

J. CALCAÑO MATHIEU.

*Mr. Hay to Mr. Loomis.*

No. 249.]

DEPARTMENT OF STATE,

*Washington, April 17, 1899.*

SIR: In reply to your No. 260, of the 26th ultimo, I have to say that inquiry at the Navy Department reveals the fact that the fleet under Rear-Admiral Sampson was expected to have reached La Guaira on the 8th instant, but it is reported to have arrived there on the 5th instant. It is understood it will remain for several days.

Admiral Sampson's instructions were, on arriving in Venezuelan waters, to place himself in immediate telegraphic communication with you, and, through you, to arrange for his presentation to the President of Venezuela. The Department doubts not you have, ere

this, had the pleasure of carrying out the wishes of the Secretary of the Navy in this respect.

I am, etc.,

JOHN HAY.

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*Mr. Loomis to Mr. Hay.*

No. 285.]

LEGATION OF THE UNITED STATES,  
*Caracas, June 1, 1899.*

SIR: I beg leave to suggest that the portion of my dispatch No. 263, dated April 10, 1899, which makes mention of the very considerable courtesies extended to Admiral Sampson and the officers of his squadron by the British minister at Caracas, Mr. W. H. D. Haggard, be communicated to Her Britannic Majesty's representative here, through the medium of the British foreign office, if such be the usual and proper course, with the expression of thanks.

I am constrained to make this suggestion for the reason that Mr. Haggard went to much trouble and no small expense to entertain the American naval officers, and for the additional reason that Admiral Sampson, through an oversight, forgot to invite him to be of the party which visited the flagship with the President of Venezuela.

The passage in my dispatch No. 263, to which I have referred, reads as follows:

I desire to mention a garden party given by the British minister to Caracas, W. H. D. Haggard, at his residence in this city. It was a delightful function, and one much enjoyed by Admiral Sampson and the officers who accompanied him.

I have, etc.,

FRANCIS B. LOOMIS.

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*Mr. Hay to Mr. Loomis.*

No. 271.]

DEPARTMENT OF STATE,  
*Washington, June 20, 1899.*

SIR: Referring to your No. 285, of the 1st instant, I have to say that our ambassador at London has been instructed to express to the foreign office this Government's appreciation of the courtesies shown to Rear-Admiral Sampson and the officers of his fleet by the British minister at Caracas.

I am, etc.,

JOHN HAY.

**SHIPS' PAPERS.—DECREE THAT SAME ARE TO BE DEPOSITED WITH CONSUL INSTEAD OF VENEZUELAN CUSTOMS OFFICIALS, AS HERETOFORE.**

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*Mr. Hay to Mr. Loomis.*

No. 268.]

DEPARTMENT OF STATE,  
*Washington, June 13, 1899.*

SIR: Our consul at Maracaibo, in his No. 1220, of the 15th ultimo, complains of the embarrassment caused him by the detention of the ships' papers of American vessels in the hands of the port authorities.

This matter has been the subject of frequent discussion between your legation and the Venezuelan Government (see Foreign Relations, 1882, 1883, 1885, and 1888), and it appeared in 1883 that Venezuela was disposed to yield the point.

This would seem natural, as, according to Mr. Baker's memorandum to the foreign office (Foreign Relations, 1883, p. 921) the Venezuelan law requires the deposit of the papers of Venezuelan ships with the consuls of their nation while in foreign ports.

You will observe also that Article XXXII of the treaty of 1836 and the last paragraph of Article XXVI of the treaty of 1860 between the United States and Venezuela (both now abrogated) apparently contemplated that the consuls of the respective nations should have in their possession the registers, the crew lists, and other documents relating to vessels of their nationality. The crew list, shipping articles, and register constitute "the ship's papers," and are regarded by international custom, sanctioned expressly or impliedly by modern commercial and consular treaties, as the national papers of the ship, the originals of which should always be in the custody of the master at sea, and in that of the consulate officer of the nation in a foreign port.

The laws of the United States require, under a penalty of \$500, every master of an American vessel which sails from a port of the United States, on his arrival at a foreign port, to deposit his register, his sea letter, and Mediterranean passport, if he has any, with the consular officer of the United States at the port. Paragraph 175 of our Consular Regulations adds that—

It is usual, also, to deposit with the consular officer the crew list and shipping articles, and these documents, together with the register, are generally described as the ship's papers.

You will bring this matter to the attention of the Venezuelan Government, pointing out that the practice of the Venezuelan authorities causes great inconvenience to our consular officers, involves violation of our laws and consular regulations, and, according to your predecessor's statement above referred to, is inconsistent with the Venezuelan law relating to its own vessels.

I am, etc.,

JOHN HAY.

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*Mr. Loomis to Mr. Hay.*

No. 301.]

LEGATION OF THE UNITED STATES,

*Caracas, June 30, 1899.*

SIR: Referring to your instruction of June 13, 1899, No. 268, in which I am directed to bring to the attention of the Venezuelan Government the fact that inconvenience and annoyance are caused our consular officers at Venezuelan ports by reason of the Hacienda law, requiring masters of foreign vessels to deposit their ship's papers with port authorities instead of with the consul, as our law provides, I beg leave to say I presented the matter to the minister of foreign affairs in a note and have received his answer, a translated copy of which I inclose.

Upon receiving your instructions I went at once to the President, after sending my note to the foreign office, and had a long talk with him on the subject. I went very fully into the case and told him that I was also in receipt of complaints on the same score from the consuls at La Guaira and Puerto Cabello.

I cited the Venezuelan law upon the point at issue and was able to relate several instances in which the steamers of the American mail line had been detained long beyond their appointed hour for departure

through the whim of port officials and for no adequate reason whatsoever.

The President freely and fully acknowledged the Venezuelan law was at fault and earnestly promised, of his own accord, personally to bring the matter to the attention of Congress at its next session and to formally urge the repeal or amendment of the law in conformity with my request.

I am trying to persuade him to suspend, provisionally, the operation in the clause of the Hacienda law relating to the deposit of ships' papers, but he thinks his authority is not sufficient, unless he should do so as a war measure during a revolution.

I have, etc.,

FRANCIS B. LOOMIS.

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[Inclosure.—Translation.]

*Mr. Mathieu to Mr. Loomis.*

MINISTRY OF FOREIGN AFFAIRS,  
UNITED STATES OF VENEZUELA,  
*Caracas, June 27, 1899.*

YOUR EXCELLENCY: The subject of your communication of yesterday, in regard to a modification of the Venezuelan custom laws as to the deposit of ships' papers, has, as your excellency knows, been presented several times by the representatives of the United States, but the Government has never been able to accede to the request of your Government because its attributes are limited in cases of this nature. The law touching this point is a part of the general law regulating the finance department, and any modification of said law can be made only by Congress.

In 1883 your legation presented this same request and the Government disposed of the matter in the only way possible.

Afterwards, in 1885 and 1888, your Government still insisted upon a consideration of this point, and in September, 1888, this ministry, in a communication to his excellency, Mr. Scott, recalled the fact of the Government's desire to submit the question to the Senate. Later, in 1891, in reply to a communication from Mr. Scruggs, the Government again replied that it could not decide a question with which Congress alone was empowered to deal.

And if Congress has not definitely decided the question in all these years it is due to the fact that it is difficult to harmonize the modification sought with other important points of the fiscal laws.

I propose, however, to inform the President of the request just made by your excellency, in order that he may determine in what manner it shall be again presented to Congress or to the legislative commission just established.

I renew, etc.,

J. CALCANO MATHIEU.

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*Mr. Hay to Mr. Russell.*

No. 276.]

DEPARTMENT OF STATE,  
*Washington, July 21, 1899.*

SIR: I have to acknowledge the receipt of Mr. Loomis's No. 301, of the 30th ultimo, reporting that he has called the attention of the President of Venezuela to the annoyance caused our consuls by the Venezuelan law relating to the deposit of ships' papers, and that the President has promised to bring the matter to the attention of the Venezuelan Congress, with a view to the repeal or amendment of the law.

The Department approves Mr. Loomis's handling of the matter.

A copy of the dispatch has been sent to each of our consuls in

Venezuela, for a report of such additional facts as they may possess for his and the Department's future presentation of the matter, should it be deemed proper to do so through him at Caracas.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Russell.*

No. 286.]

DEPARTMENT OF STATE,  
*Washington, September 6, 1899.*

SIR: Referring to Mr. Loomis's No. 301, of June 30 last, relative to the efforts made to obtain a change in the Venezuelan law in regard to the deposit of ships' papers, I inclose a copy of a dispatch from the United States consul at La Guaira relating to the subject and referring to a communication which he has addressed to you concerning it.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Goldschmidt to Mr. Cridler.*

No. 51.]

CONSULATE OF THE UNITED STATES,  
*La Guaira, August 17, 1899.*

SIR: I beg to acknowledge receipt of your No. 31, dated July 14, 1899, concerning the law obliging American vessels to deposit their papers at the custom-house. In reply thereto I would say that I should have previously reported on the subject but for the fact that several of my predecessors, according to the records of this consulate, have upon different occasions complained of the matter without apparent result.

However, I wish to say that this custom is the cause of many annoying occurrences to which vessels are subjected, and those are aggravated because they are subjected to the whim and pleasure of the customs officials who, in these countries, are, as a rule, without the least conception of what is customary in civilized countries where generally international rights are respected.

Vessels are frequently detained without cause or reason, simply because it pleases them to do so, and I think that the time has come when the United States should take steps to prevent this country from exacting the deposit of these papers.

As an example of the obnoxious custom I inclose copy of a dispatch addressed to Hon. W. W. Russell, chargé d'affaires of the American legation at Caracas, under date of the 9th of August, 1899, which will illustrate one of the methods to which American vessels are frequently subjected.

Up to date I have not received any answer to said dispatch.

Respecting your request to furnish information which would assist in facilitating a change of methods, I believe that very little can be done in an amicable way to settle this matter unless you take up such cases as the one referred to in my inclosure, and upon making the necessary representations try to secure the customary privilege of depositing ship's papers at their respective consulates.

Another way would be to issue to vessels visiting this port a duplicate register and other papers, so that they would always retain a copy, and in case of emergency could leave the duplicate at the custom-house if delivery could not be secured at the time scheduled for departure.

This latter, I believe, is the case with the German steamers touching at these ports, and I am told they all carry a duplicate register and never deliver the original.

At any rate, I believe that the time has come for these medieval, petty annoyances to cease in regard to international commerce, and if one country can not secure their rights alone, the matter might be settled if all maritime powers who have commerce in Venezuelan ports joined hands in an effort to secure their rights.

I am, etc.,

LOUIS GOLDSCHMIDT.

[Subinclosure.]

Mr. Goldschmidt to Mr. Russell.

CONSULATE OF THE UNITED STATES,  
La Guaira, August 9, 1899.

SIR: I report the following incidents happening at this port yesterday, August 8, with request that you forward to the Government of Venezuela a complaint against the local custom-house officials for what I consider very shabby treatment on their part against the undersigned United States consul, a thing which is of frequent occurrence here, and to which I no longer intend to submit, not on my own account or because of my personal feeling, but because I consider them insulting as representative of the United States at this port, and because I believe that it should not be permitted to continue thus without a strong protest being made.

The facts in the case are as follows: Yesterday at about 11 o'clock a. m., while on board the American steamship *Philadelphia*, where I had gone to forward my official dispatch, a note was brought to me from the representative of the house of H. L. Boulton & Co., at this port, requesting me to come ashore at once, as the steamer was being detained, the custom-house officials refusing to deliver the ship's "register" and "license of navigation" before 1 o'clock.

I immediately left the ship and went to the house of Boulton & Co., where I was told by Mr. Schunk that the custom-house had refused to deliver the papers of the ship, as she was expected to remain here, owing to some mail or other matter which was to arrive here at 1 o'clock p. m., by train from Caracas.

I was requested by the house of Boulton to go to the custom-house and inquire officially as to the reason of the detention of said steamship *Philadelphia*, which I immediately proceeded to do. Upon arrival at the custom-house no one was to be found except Mr. Juan Casañas, who, upon my request, went to the resguardo at about 11.30 o'clock a. m. and from there telephoned to Mr. J. M. Rivas Mundarain, who was then in Macuto at his house, the following question, asked in official capacity of the collector:

"What is the reason of the detention of the steamship *Philadelphia*, and why were the papers refused to the ship?"

Mr. Casañas answered that the collector said that the whole thing was a mistake, that the ship was not being detained, that the clerk who said so was wrong, and that the papers should be handed over immediately.

Believing that the matter was settled, I returned to H. L. Boulton & Co., and upon arrival there found that the collector of customs had rung them up by telephone from Macuto, reiterating the same statement made to Mr. Casañas and which that gentleman reported to me a few minutes before. Thereupon a man was sent in search of the clerk in charge of the papers and the dispatch of the steamer, who was breakfasting at his house. He soon arrived at the house of Boulton, where, in the presence of witnesses, he was asked what were his orders from the collector concerning the dispatch of the steamship *Philadelphia*. Mr. Antonio Gonell, the clerk referred to, replied in the presence of witnesses that his orders from the collector were not to give up the ship's papers until 1 o'clock p. m.

Thereupon I told him of the reply of Mr. Rivas Mundarain to my inquiry by telephone, that the ship was not to be detained one moment, that he never gave such an order, and that the clerk, Mr. Gonell, was wrong.

We again tried to ring up Mr. Rivas Mundarain, but could get no connection by telephone with his house in Macuto.

I then left in company of Mr. Gonell and Mr. Schunk for the custom-house, believing that Mr. Gonell would then give up the ship's papers.

Mr. Gonell retired to the private "apartments" of the collector, and, returning after a few moments, informed me that he had tried to ring up the collector in Macuto by telephone, and that the clerk at the telephone office told him that he had orders not to connect anyone with the collector's house at Macuto.

The same attempt being made successively found different telephones with the same result. I concluded that the collector wished to detain the ship until he attained his object; that he wished to shift the responsibility for such action on the shoulders of the poor clerk, Mr. Gonell; that he did not care whether he sent the American consul upon a wild-goose chase, and consequently showed that he was entirely indifferent, as he seems to care very little how American officials are treated, by previous occurrences.

To sum up, I wish to say that the ship's papers were not delivered until 1 o'clock p. m., and that when I first asked for an explanation I requested Mr. Casañas to tell Mr. Mundarain that the *Philadelphia* was an American mail steamer, and, further, that it was impossible for the ship to pass through the "Los Roques"

before night if detained, and that such an act would endanger the ship and lives of the passengers. I tried to show him that some grave consequences might be the result of this action, but in spite of this they did as they pleased, and did it unmanfully by playing a sort of hide-and-seek game with me and with the steamship agents.

That I wish to protest against such treatment, and that if the Government of Venezuela is fair and just they should punish the offenders, whosoever they may be.

That if they had manfully stated that the steamer was being detained for some reason or other, then there would have been some ground or base for action, but under the existing circumstances it was but an attempt at boy's play, to which I object.

Hoping that you will take some action in the matter, believe me, etc.,

LOUIS GOLDSCHMIDT.

*Mr. Loomis to Mr. Hay.*

[Confidential.]

No. 345.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 7, 1899.*

SIR: I have the honor to report that upon the arrival of the *Philadelphia*, an American steamer under mail contract with the Government of the United States, at La Guayra on the 1st instant, with mails, cargo, and passengers for that port, and for Puerto Cabello, the steamer's register was received by the commander of the U. S. S. *Detroit* and by him placed in the possession of the United States consul at La Guayra. This was done for the protection of the steamer and for the purpose of avoiding needless delay, annoyance, and interference with the landing of mails and cargo on schedule time at Puerto Cabello.

The collector of customs at La Guayra had informed the agent of the Red D Line in a very offensive and insulting way that no steamers would be cleared for Puerto Cabello, and that the *Philadelphia* and other vessels coming to La Guayra with cargo for Puerto Cabello would be compelled to land the Puerto Cabello cargo at La Guayra, which, in the case of the *Philadelphia* would have subjected her owners (an American corporation) to much loss and inconvenience, and caused them to violate their contracts with the shippers. The purpose of the Castro Government to require the landing of goods destined for Puerto Cabello was also formally expressed a little later in an official decree, a copy of which I inclose, with translation. The inclosed decree respecting the blockade of Puerto Cabello was not promulgated till 5 o'clock of the afternoon of the 1st instant, nearly twelve hours after the register had been taken by the commander of the *Detroit*.

It was the intention of the collector, both to prevent the *Philadelphia* from proceeding to Puerto Cabello in accordance with her regular itinerary, and to force her to discharge her cargo for the latter port at La Guayra by refusing to surrender her register until she complied with his arbitrary command.

Considering the state of the country it seemed likely that difficulties and much vain discussion would be avoided and a reasonable measure of assistance and protection given the *Philadelphia* if the power to detain her in an arbitrary way was, for the first time, taken out of the hands of the somewhat irresponsible person who was the incumbent of the post of collector of customs and who represented a

government that had not been recognized by an established government in the world.

I had some informal conversation on the subject with Commander Hemphill of the *Detroit*, and I addressed him a letter concerning it, a copy of which I inclose.

After writing and sending this letter I found that the British minister to Venezuela had arranged with the captain of H. M. S. *Pearl*, then in port at La Guaira, to receive and turn over to the British consular representative the register of a British merchant vessel due at the same time in La Guaira as the *Philadelphia*, and I furthermore ascertained that this action had been determined upon for precisely the reasons I have set forth. The captain of the *Pearl* and the commander of the *Detroit* proceeded in the same manner. Each sent an officer to receive the register of the merchantman flying his flag and in each case it was given into the custody of the consular officer of his own country. Later in the day, when the British merchant vessel was ready to sail, she was given clearance by the captain of the *Pearl*.

The custody of the registers of American vessels has frequently been a subject of correspondence between the Department and this legation within the last thirty years, and particular attention was given the matter in the years 1883, 1884, and 1885 by Minister Baker, as indicated in the foreign relations and the archives covering that period.

I, in common with many of my predecessors, have brought the matter to the attention of the Venezuelan Government upon several occasions and, like them, have been able to obtain no modification of the hacienda regulation covering this point, though, as a matter of fact, Presidents suspend the enforcement of laws pretty much as they choose.

The plain truth is that there has been no real desire or purpose on the part of the Venezuelan Government to repeal or modify this anomalous law. Further argument of the question will be vain.

It is perfectly well understood here that the practice of making masters of foreign merchant vessels deposit their papers with the local port authorities is perpetuating a usage no longer sanctioned by the most of the civilized nations of the world, and it is equally well known that the Venezuelan shipping laws require masters of Venezuelan merchant ships to deposit their ship's papers with the consular representative of Venezuela in foreign ports. It is also well understood that our law requiring masters to deposit the ship's papers with the consular representative of the United States in foreign ports is in accord with well-established usage and the practice of civilized nations. The matter has been ably and exhaustively presented by my predecessors and by the Department in its instructions to them. It seems that the Government of Venezuela has desired to retain what seems an unwarranted control over foreign vessels in her ports and for that reason has been deaf to our arguments and appeals for the repeal or suspension of the objectionable treasury regulation.

The control over foreign vessels thus persistently maintained despite the repeated and friendly requests and remonstrances of this and other foreign governments appears to be an authority very often improperly exercised. The American mail steamers are at the caprice of irresponsible port officials. They have been detained without reason at their pleasure. I have seen one of these vessels held for two hours



after her advertised time for departure by the collector at La Guaira, who was intoxicated and would not attend to his duties. It is no uncommon thing for steamers to be held to await the arrival of some friend of the collector who happens not to find the advertised hour of departure a convenient one. I have also seen a steamer held six hours to enable friends of the collector to finish their correspondence and mail their letters.

The conviction is deeply grounded in the minds of most of the port officials I have seen that when a foreign vessel is in Venezuelan waters it is theirs to do with pretty much as they please. This week the Venezuelan consul in Curaçao was instructed (so I am informed by the agents of the Red D Line) to refuse to clear the *Merida*, their branch line steamer, which meets the steamers from New York to take mails and passengers to Maracaibo, until the arrival at Curaçao of a committee which the Government here wished to send to Maracaibo. So, not only in their own ports but in foreign ones, an authority is assumed and sought to be exercised in a manner which must, at least, be termed unusual if not unbearable. It was the purpose, if necessary, in the incident just cited, to hold the *Merida* several days with her mails and passengers, in case the commission could not promptly reach Curaçao, as the chances were it would not.

At La Guaira the detention of the Red D Line ships may become a very grave and perilous matter. These ships sail on their northward voyage at 12 o'clock noon. This is done in order to pass Los Roques, a place of great danger, before nightfall. It takes about six hours to reach the vicinity of Los Roques, and if a vessel is detained two hours at La Guaira either she runs a great risk, and sails, or, as most frequently is the case, she waits till midnight and passes the rocks at daybreak, thus losing twelve hours in time, delaying the arrival of mails in New York, and subjecting the owners to a considerable expense.

There seems to be no adequate sense of responsibility among many of the officials concerning their rights over foreign ships and property, and the exercise of those rights, while the possession of the foreign vessel's register puts the ship, for the time being, quite in the power of the port official, no matter what his intention and character may be. To be sure, if damage were inflicted or indignity resulted from the exercise of this power, some redress might be obtained in the future; but if money compensation for an injury of any sort were asked, it could not be obtained.

In view of these considerations and of the further fact that revolutions occur frequently, with the result of sometimes putting reckless and ignorant people into important official positions at some of the ports of the country—officials whose tenure might be but a few days or weeks—it seems to me that it might be as well to take under advisement the expediency of insisting that hereafter United States merchant vessels may not be required to surrender their registers to local authorities upon entering a Venezuelan port. I think if this be insisted upon, and the register received a few times by a war vessel, the point will be tacitly yielded by the Castro Government.

I am informed by the British minister that he has written an earnest dispatch on this subject to Lord Salisbury, in which he suggests that the question of the custody of the ships' papers in Venezuelan ports be made the subject of communication to the Secretary of State at Washington.

Since writing the foregoing the incident of the taking of the register,

so far as the Venezuelan Government is concerned, was closed by the collector of customs going aboard the *Philadelphia* as she was leaving for Curaçao and presenting her with clearance papers with General Castro's compliments. In 1892, under somewhat similar circumstances, she was fined \$10,000, which was afterwards remitted.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure 1.—Translation.]

OFFICIAL BULLETIN.

Cipriano Castro, General of the Venezuelan Armies, Supreme Chief of the Liberal Redeeming Revolution, and in charge of the National Executive Power.

DECREE.

ART. 1. The port of Puerto Cabello is hereby declared closed to import and export commerce. Merchandise for said port will be unloaded in La Guaira and placed there at the disposition of the owners, who can import it by paying the duties or leave it stored to be sent elsewhere.

ART. 2. A blockade is hereby established for the port and coast of Puerto Cabello, and all ships, foreign or native, are forbidden to enter said port. The war ships *Bolívar* and *Lamora* will patrol the said coasts and make the legal notifications.

ART. 3. The ministers of interior, foreign affairs, finance, and war and marine, are charged with the execution of this decree.

Given in the Federal palace of the capitol in Caracas, this 31st day of October, 1899, eighty-ninth of the independence, and forty-first of the federation.

CIPRIANO CASTRO.

Countersigned, minister of interior:

J. FRANCISCO CASTILLO.

Countersigned, minister of foreign affairs:

R. ANDUEZA PALACIO.

Countersigned, minister of finance:

R. TELLO MENDOZA.

Countersigned, minister of war and marine:

JOSÉ IGNACIO PULIDO.

[Inclosure 2.]

Mr. Loomis to Commander Hemphill.

LEGATION OF THE UNITED STATES,  
Caracas, October 31, 1899.

SIR: The agents in Venezuela of the Red D Line of steamships, a line owned and operated by an American corporation, called at this legation to-day and stated that they had been informed that the officials of the Castro Government at the port of La Guaira would attempt to prevent the steamer *Philadelphia*, of the Red D Line, from leaving for Puerto Cabello, as she is regularly advertised to do, on the 3d of November, according to the published schedule, which has been many months in force.

The agents stated that an attempt would be made to obtain and keep the register of the *Philadelphia*, and that other expedients to annoy and detain the vessel and her officers would doubtless be made. In the revolution of 1892 I am informed this same vessel was twice forced to sail for Puerto Cabello without her register, and that she was then cleared by Admiral Walker.

The agents of the Red D Line inform me that the *Philadelphia* has mails and cargo for Puerto Cabello, and as the port is not blockaded or in any manner closed I see no reason why she should not follow her usual itinerary.

The agents of the Red D Line desired to know whether you would receive the register of the *Philadelphia* from her captain immediately upon the arrival of that vessel in port at La Guaira, and whether you would see that she was allowed to

discharge her mails and cargo at Puerto Cabello without molestation from the person or persons assuming (without warrant) to be in authority at that port.

I said that it was my impression you would be disposed to afford the protection and assistance asked for, as it probably fell within the scope of your instructions, and that I would refer their request to you at once.

Some few hours after the visit of the Red D Line agents to the legation I was told that the Castro Government contemplated the establishment of a blockade at Puerto Cabello in order to prevent any steamer from entering that port. I have heard this as a rumor only. An efficient blockade could not be established unless the boats taken away by General Andrade were promptly returned and put into service and due notice given to all concerned.

Very respectfully,

FRANCIS B. LOOMIS.

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*Mr. Loomis to Mr. Hay.*

[Confidential.]

No. 347.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 15, 1899.*

SIR: Referring to my dispatch No. 345 of November 7, I have the honor to inclose a copy of a letter, with my answer, from Messrs. H. L. Boulton & Co., agents of the Red D Line steamship line, touching upon the subject of the custody of the papers of foreign ships in Venezuelan ports.

I also inclose a copy of a letter addressed by the United States consul at La Guaira to the master of the *Caracas*. This copy was furnished me by the agents of the Red D Line, the consul having made no communication to me on the subject.

According to section 178 of the Consular Regulations, the consul is not authorized to impose fines in case of the failure of a master to deposit his register with him, and his function is practically limited to making a report of the facts to the Secretary of State after having called the attention of the offending master to the law applicable to the case.

The practice, as you are aware and as set forth in the letter of H. L. Boulton & Co., is for foreign steamers entering the port of La Guaira to surrender their papers to the local port authorities. The only exceptions to this practice have been, so far as I know, in times of revolution, when there was no recognized government, or when there had been an avowed purpose on the part of the authorities arbitrarily to detain a foreign steamer, as was the case reported in my dispatch No. 345. As American steamers have been required to submit to the municipal law governing ports and shipping, save in extraordinary cases, when the commander of one of our naval vessels has taken their register and given them clearance, it is to be presumed, I take it, that there is no intention of bringing suit against masters of vessels, on the part of the United States Government, who, obeying the laws of the country, fail to deposit their registers with the United States consul.

I reported in my dispatch No. 345 as closed the incident of the *Philadelphia* and the taking of her register when it was believed she would go to Puerto Cabello and that the custom-house officials would seek to prevent her by refusing to clear her. It seems, however, when the *Philadelphia* returned to La Guaira for her passengers and mails on the morning of the 8th of November, prior to commencing her voyage north, her register was taken by the commander of the *Detroit*, con-

trary to the wishes of her agents, so they say, and retained by him until she was ready to sail later in the same day for New York. There was no intention on the part of the authorities upon this latter occasion to detain or in any way to interfere with the boat.

When the *Caracas* arrived at La Guaira on the morning of the 13th from New York, the commander of the *Detroit* sent an officer aboard of her to get the register, but it had been delivered to the customs officials, as is the custom. Then followed the letter of the consul to the master of the *Caracas*, which I inclose.

Unless I receive instructions from you to advise the agents of the Red D and other American vessels calling at Venezuelan ports to direct the masters of such vessels to deposit their ships' papers with our consular officers at Venezuelan ports, I take it, in case the Government here does not yield this point, the usage long in vogue will have to be continued and the register of American vessels surrendered to the port officials save in extraordinary cases.

I would be glad, of course, if a naval vessel could be stationed at La Guaira at all times to take possession of the registers of American ships, if such measure should be deemed expedient by the Department, but under the long-existing conditions I am of the opinion that the treatment of this question for the moment through the usual medium of diplomacy, which has been intrusted to this legation, will not be facilitated should there happen to be independent action in the matter, however wise and well meant, on the part of the United States consul at La Guaira or on the part of our naval commanders at that port.

For more than a week I have been very actively at work with General Castro, urging him, with all the argument and force I could command, to suspend the law requiring masters of foreign ships to deposit their registers with port officials when in Venezuelan harbors. I have had three long talks with General Castro on the subject, and he admitted that the position occupied by Venezuela in this matter is an unique one, with little to justify it. He has promised to give the matter immediate and serious attention. Next week the British minister will probably prefer a similar request, and I may be able to get the German minister to do something in the matter, as many ships of his nation call at Venezuelan ports.

The agents of the Red D Line informed me that they inferred from the form and tone of Consul Goldschmidt's letter that he was empowered immediately to impose a fine of \$500 and collect the same. The fact that the consul was apparently trying to force the issue by preventing the captain of the *Caracas* from depositing his papers in the usual way had, I found, been made known to General Castro when I last called to endeavor to persuade him that it would be a gracious act on his part—one indicating his good will toward the United States—to suspend the operation of the law relating to the custody of the papers of foreign ships in Venezuelan ports until it could be repealed or amended in a satisfactory way.

\* \* \* \* \*

If General Castro does not act within a fortnight in respect to this matter there will be no reason to think the desired end will be attained from his Government through ordinary methods.

I have, etc.,

FRANCIS B. LOOMIS.

*H. L. Boulton & Co. to Mr. Loomis.*

CARACAS, November 14, 1899.

MONSIEUR LE MINISTRE: The American steamer *Caracas* arrived at La Guaira yesterday morning and Captain Woodrick delivered the register of the ship to the custom-house authorities in compliance with the Venezuelan law on the matter.

The United States consul at La Guaira, Mr. Louis Goldschmidt, has to-day imposed a fine of \$500 to the said Captain Woodrick for having delivered his register as aforesaid instead of delivering it to him.

Your excellency is no doubt aware that since the establishment of the Red D Line, its steamers, as well as those of all other foreign lines calling at the Venezuelan ports, have always complied with the Venezuelan law, because its nonob-servance implies a fine to the vessel of from 2,000 to 2,500 bolivars and the delivery of a bond from her agents for 10,000 bolivars, which bond is enforced if the register is not delivered to the custom-house authorities. The custom-house authorities refuse, besides, all legal clearance to foreign vessels not having delivered the register.

Now if the steamers of the Red D Line deliver their registers to the United States consuls they are imposed a fine by the Venezuelan Government, as above mentioned, and we, as general agents for the line have to give bond for a further sum of 10,000 bolivars; and, on the other hand, if the said steamers, in compliance with the Venezuelan law, deliver their registers to the custom-house authorities the United States consul now imposes a fine to the captain of \$500, thus creating a very abnormal situation to the Red D Line.

We, as general agents for the Red D Line, which has been trading with Venezuela for over twenty years, have to look after its interests in Venezuela to the best of our abilities and have to decline all pecuniary responsibility arising from the acts of the United States consuls or of the commanders of the United States war vessels which might be against the laws of Venezuela, unless we be otherwise instructed in writing by your excellency as the representative of the United States Government in Venezuela, since we have to presume that the United States consular agents as well as the commanders of the United States war vessels in Venezuelan waters are all under your control and orders.

We have, etc.,

H. L. BOULTON & Co.

[Inclosure 2.]

*Mr. Loomis to H. L. Boulton & Co.*

LEGATION OF THE UNITED STATES,

*Caracas, November 15, 1899.*

SIRS: I am in receipt of your esteemed favor of the 14th instant in which you state that the United States consul at La Guaira has imposed a fine of \$500 upon Captain Woodrick of the *Caracas* for having delivered his register to the Venezuelan custom-house authorities instead of delivering it to him, the consul, as required by the laws of the United States.

I have no responsibility for the action of the consul or the commander of the United States naval vessel now at La Guaira in this matter, but I will forward a copy of your letter to the Secretary of State at Washington with an explanation of the circumstances which drew it forth.

Very truly, yours,

FRANCIS B. LOOMIS.

[Inclosure 3.]

*Mr. Goldschmidt to Mr. Woodrick.*

CONSULATE OF THE UNITED STATES,

*La Guaira, November 14, 1899.*

Whereas yesterday, on the 13th day of November, 1899, there arrived in this port the American steamship *Caracas*, of Wilmington, whereof you are master,

late from New York, and whereof you have failed to deposit at this consulate the register and other ship's papers of said steamship *Caracas*, as required by Revised Statutes of the United States, sections 4309 and 4310, as per copies annexed, I, the undersigned, consul of the United States at this port, therefore impose upon you a fine of \$500, as per said law, as a penalty for failure to deposit said papers in my care.

LOUIS GOLDSCHMIDT,  
*United States Consul.*

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*Mr. Hay to Mr. Loomis.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, November 18, 1899.*

Three hundred and forty-five received. Insist on ship's papers being delivered to the United States consul, in accordance with practice of modern nations. Invite coincident action by other ministers.

HAY.

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*Mr. Loomis to Mr. Hay.*

No. 351.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 20, 1899.*

SIR: I have the honor to inform you that the long-standing contention with the Venezuelan Government concerning the custody of the papers of foreign vessels, particularly those of the United States, while in Venezuelan ports, has been settled in what I trust you will find a satisfactory manner. As I have stated in previous dispatches, I have presented this matter several times to General Castro since he became the head of the de facto Government and have fully explained the desires of the United States Government, pointing out, too, that the position so long maintained by Venezuela was anomalous and unique among the civilized nations of the world.

I also explained the character of the ship's register and the importance my Government set upon having this document remain in the possession of the master of the vessel or its regularly accredited consular officers in foreign ports. I made it plain that the Government of the United States was very much in earnest and hoped for prompt and favorable action.

General Castro seemed to feel that the position occupied by Venezuela was not a tenable one, and, as I have said, promised to give the matter careful and immediate attention.

When I called upon him to-day he said he had brought the question of the custody of ship's papers before his cabinet and that it had been decided to issue a decree amending the treasury law so that hereafter the papers of foreign vessels in Venezuelan ports shall remain in the custody of the consul representing the nation to which the ship belongs. The port officials will reserve the right to inspect a ship's papers, but are in no sense to have the custody of them, and the inspection must be made on board the ship.

General Castro promised that I should have official notice of the decree to-morrow.

I have, etc.,

FRANCIS B. LOOMIS.

*Mr. Loomis to Mr. Hay.*

No. 355.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 28, 1899.*

SIR: I cabled you on Monday last, November 20, that the matter of the custody of ships' papers had been arranged in a satisfactory way.

I had a long interview Monday afternoon with General Castro on the subject, and he said that he had had the matter under serious consideration since my former interviews and was now of the opinion that Venezuela could no longer continue to be an exception to the practice of other maritime nations in respect to her requirements concerning the deposit of the papers of foreign vessels within her ports, and that it had been decided to comply with our earnest request that the masters of American merchant vessels in Venezuelan ports should be at liberty to deposit their papers with the American consular officers in those ports instead of with the port officials, as the usage had been. This same privilege, he said, would of course be accorded to all foreign vessels. General Castro then said that I could inform you that the matter had been definitely arranged and that a decree would be immediately published in the Official Gazette setting forth the new arrangement in due legal form. I inclose a copy of the decree, with a translation thereof. It makes the suggested amendment in the treasury law of Venezuela which has been earnestly sought by this legation many times within the last sixteen years, and the amendment will be in force until the law is repealed or amended by Congress.

It will be observed that the custom authorities at no time will have ships' papers in their custody, and will exercise no control over them beyond the right of inspection, which function will be performed on board the vessel. I insisted that at no time should the register of a ship pass out of the possession of the master of the vessel or the consul, and General Castro said that construction would be given the decree.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure—Translation.]

MINISTRY OF FINANCE, UNITED STATES OF VENEZUELA,  
MINISTRY OF FINANCE AND PUBLIC CREDIT, CUSTOM-HOUSE BUREAU,  
*Caracas, November 22, 1899, 89th and 41st.*

*Resolved*, According to the provisions of article 44, law 16, of the Finance Code, the sailing license and other papers of foreign ships arriving at Venezuelan ports must be deposited with the chiefs of the custom-houses at said ports, to be retained by them until the final clearance of the ships. Repeated complaints having been made by merchants and shippers that the carrying out of this law presents difficulties of a nature entirely foreign to what was contemplated when said provision of the Finance Code was incorporated with the Venezuelan fiscal laws; observing, too, on the other hand, that almost all the other countries of the world, Venezuela included, require the masters of their ships to deposit their papers with the consular agent of the nation to which they belong: Therefore, the supreme chief of the republic, animated by a desire to extend to commerce the greatest facilities, and at the same time with a due regard to the national interests, has seen fit to repeal temporarily said article, so that hereafter the consuls shall take charge of their ships' papers, instead of the chiefs of the custom-houses: *Provided always*, That said papers shall be first presented to the customs authorities.

This resolution to remain in force until the legislative power shall consider and definitely dispose of the matter.

Let this be communicated and published.

For the National Executive.

R. TELLO MENDOZA.

**REVOLUTION IN VENEZUELA AND RECOGNITION OF DE FACTO GOVERNMENT.**

*Mr. Russell to Mr. Hay.*

No. 313.]

LEGATION OF THE UNITED STATES,  
*Caracas, August 7, 1899.*

SIR: I have the honor to state that last week the insurgent faction in the State of Los Andes under Gen. Cipriano Castro was completely defeated by the Government troops in a bloody battle which lasted eighteen hours. The loss of the insurgents is placed at 800 killed and wounded and the Government lost 300.

This is the end of the disturbances in that section, which was the only part where there was trouble.

I have, etc.,

WILLIAM W. RUSSELL.

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, September 5, 1899.*

Revolutionists gaining strength. Government not secure. Advisable send without delay nearest war vessel La Guaira. Answer cipher.

RUSSELL.

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, September 5, 1899.*

Conditions little more favorable for Government. Advisable have war vessel within a few days' call.

RUSSELL.

*Mr. Adee to Mr. Russell.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 7, 1899.*

Cable exact status revolution indicated by actual development, eliminating rumors. Who is leader?

ADEE.

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, September 8, 1899.*

Confidential. Leader revolutionists mentioned Castro. After defeat gathered about 3,000 men. Government troops have not attacked.



Trying mass forces. Revolution aided prominent political refugees Curaçao. Government may succeed. Has 7,000 troops. Situation same second cable 6th.

RUSSELL.

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*Mr. Russell to Mr. Hay.*

No. 321.]

LEGATION OF THE UNITED STATES,  
Caracas, September 8, 1899.

SIR: I have the honor to hereby confirm and acknowledge cables<sup>1</sup> sent and received, copies of which will be found on the sheet annexed hereto.

Confidential. The first cable I sent on September 5 was the result of direct information from Government officials in the interior. The second cable was also the result of reliable information, and I lost no time in sending it after I had investigated the source. I thought it advisable to have a war vessel somewhere within call if the revolution made much more progress.

The leader of this uprising is Cipriano Castro from the State of Los Andes, and whose defeat by the Government troops I communicated to the Department in my No. 313 of August 7. Castro, after his defeat, fled with the remnant of his band, about 1,000 men, and was making his way to Valencia, which is only a day's journey from Caracas. On his march he had captured one or two squads of the national troops with their arms and ammunition. He arrived at a town called Nirgua, in the State of Carabobo, two or three days' march from Valencia, with about 3,000 men that he had collected on his march from Los Andes. The Government officers reported to Caracas that the revolutionary force was too strong for them to attack, and that the only thing they could do would be to act on the defensive. Castro, with his knowledge of the country and his peculiar tactics, had separated by long distances the Government troops and was encountering no resistance. One of the Government generals was ordered to reenforce the national troops already in that section, but had to come by forced marches from Maracaibo, a three days' journey. These troops are supposed to have arrived by this time, and if the Government's figures, are correct Castro will have to engage a superior force or retire. Nothing definite has been heard from the scene of action yet. When Castro was so badly defeated it was thought that the troubles were over. But just after this the Government discovered a revolutionary plot of the followers of General Hernandez, the one who started the first revolution against General Andrade. Hernandez was arrested and placed in prison here with a great many of his followers, and it is believed that Castro's forces have been increased by the Hernandistas joining him.

General Pietri, a prominent politician and ex-minister to Paris, is a refugee in Curaçao with other disaffected notabilities, and Castro is undoubtedly being aided by this contingent. I had a long conference with the President day before yesterday, and while he was optimistic as to the ultimate result, I could see that he was not as sure of himself as he ought to be.

The country is in a bad financial condition, and there is a good deal

of discontent with the present administration. I will keep the Department advised by cable, and I would suggest that all telegraphic communication from Washington be in cipher, as otherwise the contents of cables will be divulged as soon as they reach here.

I have, etc.,

WILLIAM W. RUSSELL.

*Mr. Adee to Mr. Russell.*

No. 287.]

DEPARTMENT OF STATE,  
*Washington, September 8, 1899.*

SIR: I append hereto translation of telegrams<sup>1</sup> from and to you with regard to the revolution in Venezuela. A naval vessel will be sent to watch events. The news caused much apprehension in business circles here, the gravity of the situation not being confirmed by press or private information.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to Mr. Russell.*

No. 288.]

DEPARTMENT OF STATE,  
*Washington, September 11, 1899.*

SIR: The Department is advised by the Acting Secretary of the Navy that the U. S. S. *Detroit* has been ordered to La Guaira, where she is expected to arrive about September 15.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, September 14, 1899.*

President of Venezuela left Caracas to-day to take command in field against revolutionists. Vice-President acting. New cabinet.

RUSSELL.

*Mr. Adee to Mr. Russell.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 14, 1899.*

Ask if Venezuelan Government is disposed to grant permission for naval vessel of the United States to survey bar at the mouth of the Orinoco River in the interest of general commerce. Early answer desired, as Navy Department is prepared to begin survey at once.

ADEE.

<sup>1</sup> Printed ante, p. 793.

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, September 15, 1899.

Revolutionists took Valencia yesterday. President returning to Caracas. Where is war vessel? Permission granted to make survey mentioned yesterday's cable.

RUSSELL.

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, September 16, 1899.

Send nearest available war vessel.

RUSSELL.

*Mr. Adee to Mr. Russell.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, September 16, 1899.

Detroit expected La Guaira Monday.

ADEE.

*Mr. Russell to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, September 16, 1899.

In case of trouble Caracas can Cubans hoist our flag for protection?  
Answer.

RUSSELL.

*Mr. Adee to Mr. Russell.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, September 19, 1899.

Flag should only be shown by citizens. You may notify authorities of any menaced Cuban property and use good offices for them.

ADEE.

*Mr. Russell to Mr. Hay.*

No. 323.]

LEGATION OF THE UNITED STATES,  
Caracas, September 23, 1899.

SIR: I have the honor to acknowledge and confirm cables<sup>1</sup> to and from this legation bearing on the present revolution, copies of all of which will be found on the annexed sheets.

<sup>1</sup> Printed ante.

Confidential. Valencia was taken after bloody battle in which the Government troops were severely defeated. The President had left Caracas to take command of the troops in the field, but returned after the fall of Valencia. General Castro, the revolutionary leader, has a powerful and well equipped force. The government officials were badly demoralized, and the city of Puerto Cabello was abandoned by the custom-house officers, who fled to La Guaira on a man-of-war.

After Andrade's return to Caracas there was a renewed effort on the part of the Government to mass its forces for a resistance. Puerto Cabello is in the hands of the Government, with a general in command of the town.

The *Detroit* arrived on the 18th, and after a consultation with Captain Hemphill it was thought best for the ship to go to Puerto Cabello, as that was the place nearest the scene of action and where trouble was most feared at the time. The Red D steamer *Caracas* and the *Detroit* left on the evening of the 18th for Puerto Cabello.

I received a cable from Captain Hemphill to-day as follows:

Business entirely suspended here and streets deserted. Town quiet but uneasy. Some deserters from Government forces.

For the last two or three days there has been a dearth of any official news regarding the movements of Castro, but it is generally conceded that he has advanced a considerable distance from Valencia and is supposed to be somewhere near Maracay, which is about five hours by rail from Caracas. The cabinet is divided as to the policy to be pursued; some advocate resistance, and others advise Andrade to make some overtures looking to a surrender of the power. The Government has a great many troops, but the most of them have been recruited lately and are a sorry lot. Treason exists on all sides and the administration is not popular.

After the fall of Valencia the diplomatic corps met daily at the various legations and the dean was sent first to the Vice-President, who acknowledged that the Government was in a serious predicament, but promised to do all he could to avoid bloodshed in Caracas. After Andrade returned the dean also called on him and the situation was again explained, but in a little more favorable light. He also said that he would prevent bloodshed in the capital.

Gen. Luciano Mendoza has been appointed chief of the Government troops and this has caused much alarm, as he is a desperate man and stops at nothing. In 1892 he collected large amounts of money by force from the merchants and his name is coupled with many acts of lawlessness. As far as accurate information can be obtained, the situation seems to be that Castro is advancing, and the general opinion is that this Government will fall.

Something decisive can be expected within the next week. I will keep you informed by cable. The English man-of-war *Proserpine* arrived at La Guaira yesterday, and a French cruiser is standing at Curaçao.

I have, etc.,

WILLIAM W. RUSSELL.

*Mr. Loomis to Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, October 9, 1899.*

May our war vessel, if requested, be used for conference between the President of Venezuela and revolutionary leader? The latter will

in all probability be President of Venezuela before long. The President of Venezuela is expected to resign if he can make satisfactory arrangement. Confidential.

LOOMIS.

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*Mr. Loomis to Mr. Hay.*

[Confidential.]

No. 329.]

LEGATION OF THE UNITED STATES,  
Caracas, October 9, 1899.

SIR: It is impossible to forecast the situation at this time or to give a very intelligible notion of it, for the reason that this is a season of intrigue and conference rather than one of military operation and fighting.

Eight days ago a suspension of hostilities was agreed upon. The armistice expires Monday evening next, but may be prolonged a few days. General Castro is encamped at Valencia and is governing the city. He is credited with the maintenance of good order and a very fair degree of discipline.

The Government troops are at Victoria under the command of General Mendoza. He seems to be feared by many people here, and it is rather generally believed that if he is defeated by General Castro he will fall back on Caracas and loot the city and levy many forced loans. General Mendoza's record is said to be such as to justify these fears, but what he would do should his army enter Caracas is wholly a matter of conjecture. President Andrade's friends profess to have no fears regarding him, and the President is sending him troops and arms daily.

I am informed by a member of the Cabinet, whose relations with the President are of a close personal, family, as well as political nature, that the President is willing to resign if General Castro will wait till the assembling of Congress, in order that he may be chosen President in a regular and lawful manner. President Andrade is reported to have said that he will renew hostilities rather than submit to the establishment of a dictatorship by General Castro. It has been proposed to the President to withdraw in favor of the Vice-President and let the latter govern till the meeting of Congress in February, and a compromise of this nature is not improbable.

I was invited the day of my arrival here to accompany a special commissioner of the President on a visit to General Castro, but deemed it wise to decline the invitation. In an unofficial and friendly way I have done what I could to find a peaceable solution of the situation.

I have, etc.,

FRANCIS B. LOOMIS.

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*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, October 10, 1899.

Negotiations suspended to-day. Venezuelan forces will be advanced. A decisive battle fully expected this week. Puerto Cabello quiet.

LOOMIS.

*Mr. Hill to Mr. Loomis.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, October 10, 1899.

Secretary of the Navy authorizes commander of the *Detroit* to permit suggested conference to take place on board if so requested.

HILL, *Acting.*

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*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, October 14, 1899.

Have been informed by Venezuelan minister for foreign affairs general commanding army of Venezuela deserted, and President of Venezuela will be forced to abandon Caracas without fighting. He may establish his government at Maracaibo or Puerto Cabello.

LOOMIS.

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*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
October 19, 1899.

The revolution practically over. The President of Venezuela will probably leave Caracas and Castro enter within forty-eight hours without fighting.

LOOMIS.

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*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, October 20, 1899.

President of Venezuela left for La Guaira daylight with 800 men. Did not resign office. Some disorder here. Heavy bomb dynamite exploded against house Matos, formerly minister finance.

LOOMIS.

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*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, October 20, 1899.

Vice-President assumed power. Order restored.

LOOMIS.

*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, October 21, 1899.*

Andrade abandoned Government without notifying cabinet or Government as required by the constitution. Whereabouts unknown. Vice-President in full power, according to constitution. Andrade's flight held to vacate office. Can I recognize the Government just formed? Andrade cabinet resigned; another appointed.

LOOMIS.

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*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, October 21, 1899.*

Andrade sailed last night while communication with Caracas was cut; destination unknown.

LOOMIS.

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*Mr. Loomis to Mr. Hay.*

No. 336.]

LEGATION OF THE UNITED STATES,  
*Caracas, October 22, 1899.*

SIR: The political situation in Venezuela is less complicated than when I discussed this subject in my dispatch of October 9.

The abrupt departure of President Andrade from the capital and country on the 20th of October made certain and easy the triumph of the revolution and the advent of General Castro in Caracas.

I have informed you of the important events as they happened by cable.

Negotiations looking toward some peaceable settlement between President Andrade and General Castro were carried on in a desultory fashion up to the morning of the President's departure, or flight, as it is called here. President Andrade thought of armed resistance to the approach of Castro till about a week ago, when General Mendoza, who commanded the Government forces, opened negotiations with General Castro on his own account. It was generally believed here all along that Mendoza would betray Andrade, as the former's reputation is not of the best, but the President continued to send him money and men until about ten days ago.

At one time it was thought a meeting would be arranged between President Andrade and General Castro, and I was asked, in case such a meeting were arranged, if it could take place on the *Detroit*, hence my cable of October 9.

In the negotiations with General Castro during the past fortnight Andrade professed to be willing to retire from the Presidency in favor of Castro, but wanted to wait till Congress convened, when he could present his resignation in a regular and legal manner. General Castro, of course, desired to take charge of the Government at once. Then it was arranged to call a convention which should adopt a new

constitution and elect General Castro President. General Andrade finally seemed to agree to this plan, and there was only left open the question concerning the manner of choosing the members of the convention, and General Castro yielded this point, his dispatch on the subject arriving just as Andrade left the city.

Andrade's departure was concealed from most of the members of his cabinet and is thought to have been hastened by the explosion of a bomb shortly after midnight on the 20th at the door of Señor Matos's city residence. The feeling in the city has been very bitter against General Andrade for several weeks, as it was held that he was uselessly prolonging the revolution. There is much hardship here occasioned by the interruption of business and the failure of the Government to pay salaries and other obligations. So Andrade incurred the hatred of all the unprosperous and hungry people, and his life was often threatened. When it became evident that his Government was not likely to prevail, he was deserted by most of his former friends. Not a single man of prominence accompanied the late President when he marched out of Caracas at sunrise on the morning of the 20th. He took with him about 1,000 men, and they made a picturesque spectacle as they wound in a sinuous line of red from the base to the crest of the mountain, with the morning sun sparkling on their bayonets. There was a short period of confusion when it became generally known that Andrade had left Caracas. He took all of the troops in the town with him, but after a few hours the Vice-President formally announced that he had assumed authority and troops from the neighborhood were brought in and good order assured. All the places at which intoxicating liquors were sold were closed and most of the business houses were not opened that day.

Efforts were made to have troops between here and La Guaira stop General Andrade, but without success. He reached the port in safety and was saluted with 21 guns by the La Guaira fort, though it is said that the commander of the fortress had been instructed to fire upon him by the new Government at Caracas. General Andrade embarked his troops without disorder and left late that night, taking a course north of east, which would carry him either to Trinidad or Martinique. He sent back a letter to Caracas indicating that he would not continue the struggle at present, so he may be considered for the time as eliminated from the problem.

The Vice-President, Gen. Victor Rodriguez, as president of the government council, became acting President the moment Andrade left the federal district. He is, by the expressed mandate of the constitution, the head of the Government. Andrade's cabinet resigned and the acting President has formed a new cabinet. Andrade's illegal departure from the capital and the country is held to vacate the office of President, but, as I have said, the constitution makes it very clear in respect to the competency and legality of the now existing Government. This view is taken formally by the supreme court of Venezuela, and I have heard of no one who has dissented from it. It is also the unanimous opinion of the diplomatic corps, which met informally this morning at this legation.

General Castro is expected to-day or to-morrow in Caracas. I am informed that the acting President will turn the Government over to General Castro within a few days. There is no legal warrant for such a course, but there is precedent for it. A convention will then be called, consisting of one or two delegates from each State. This con-



vention may adopt a new constitution and it will arrange for a general election, the object of which will be to elect General Castro President. There may be some changes in this proposed procedure, but they are not likely to be important.

It is feared that General Castro may have trouble with the Hernandez faction unless he is able to satisfy them in the early days of his rule. I consider the present revolution at an end, but it is too early to say that the country has entered upon a long era of peace.

I am of the opinion that the *Detroit* should remain in or near Venezuelan waters until the Castro Government is fairly well established. The presence of war vessels here has had a great restraining influence, and has no doubt been of much moment in the preservation of order in La Guaira and Puerto Cabello.

I have, etc.

FRANCIS B. LOOMIS.

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[Postscript to Dispatch No. 336.]

CARACAS, *October 23, 1899.*

General Castro arrived in Caracas last night and was heartily welcomed.

For the last ten days Caracas has been much like a city in a state of war. All communication has been stopped with La Guaira upon several occasions, and the telephone, telegraph, and the land wires of the cable company have been cut. I mention this fact to account for the delay in the forwarding some of my cables. On the 20th instant we were able to communicate with the commander of the *Detroit* only by means of a special engine which had been placed at the disposition of the commander of the British cruiser for the purpose of enabling him to communicate with his diplomatic representative here. The Caracas and La Guaira Railroad is an English corporation.

Upon several occasions cable messages were carried over the mountains by special messenger.

It was supposed that there would be a serious conflict at La Guaira in connection with General Andrade's departure, and the sacking of Caracas by Mendoza's troops was thought likely by a large number of people here, so it will be seen how important it was for us to keep open a way of communication with the ships. Confidentially there was a condition of terror nigh general among the natives for several days.

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*Mr. Hay to Mr. Loomis.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, October 23, 1899.*

Wait events. Can not assume to judge conditional title. Test of recognition is complete regency of affairs by de facto government capable of fulfilling international obligations. Meanwhile transact necessary business with locally responsible authorities.

HAY.

*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, October 24, 1899.

Government turned over to Castro by acting Vice-President. Castro seems very popular, but his cabinet viewed with suspicion.

LOOMIS.

*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, October 27, 1899.

Hernandez, probably strongest leader after Castro, left Caracas 2,000 men about midnight, probably to begin uprising against de facto government. Hernandez was given cabinet position by Castro, but demanded other important concessions.

LOOMIS.

*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, November 1, 1899.

Puerto Cabello formally and probably effectively blockaded by Castro Government.

LOOMIS.

*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Caracas, November 1, 1899.

Shall I recognize blockade? Will it not imply recognition de facto government, which is fairly well established? American mail steamer almost ready to enter Puerto Cabello.

LOOMIS.

*Mr. Hay to Mr. Loomis.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 2, 1899.

If closure by the de facto government is supported by effective blockade it must be respected by all United States merchant vessels.

HAY.

*Mr. Loomis to Mr. Hay.*

No. 340.]

LEGATION OF THE UNITED STATES,  
Caracas, November 7, 1899.

SIR: I have to report that on the 1st day of November I had an informal talk with General Castro at the Yellow House. He had previously sent me word, quite of his own volition, that he would be very pleased to see me at any time I chose to call upon him. As I had that morning received a letter from an American citizen residing near Valencia in reference to the loss of several hundred cattle, which he said Castro's troops had taken without, in some cases, giving the proper receipts, I thought the only way to secure prompt action was to see the general himself. He disposed of the matter at once by saying that legal receipts would be furnished, and that he would send telegraphic orders to take no more of the American's cattle.

General Castro is a very small dark man, who seems to have a considerable admixture of Indian blood. He walks with the aid of two crutches, as he is still suffering from his foot, which was badly sprained when his horse fell on it more than six weeks ago. He talks well and with facility, and appears to be a man who reaches decisions quickly. I think he means well. He talked, of course, in a very agreeable way of the United States Government and expressed admiration for our people and institutions.

I spoke to him about the second section of his blockade decree, in which he declared that cargoes for Puerto Cabello must be discharged at La Guaira, and said I did not think that foreign governments would be disposed to admit that Venezuela had the control over their merchant ships which this part of his proclamation implied. I furthermore added that I understood the agents of the American steamer *Philadelphia* would either take her Puerto Cabello cargo back to New York or land it in Curaçao. General Castro at once admitted the justice of my observations, and said no objections would be interposed to the course which I had indicated would be pursued by the *Philadelphia*. It is probable he had not had time to consider the decree before it was published and that the formulation of it was left to subordinates.

The weakness of General Castro, for a time at least, will be that he has slight acquaintance with public men and with the details of Governmental business.

Confidential.

I have, etc.,

FRANCIS B. LOOMIS.

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*Mr. Loomis to Mr. Hay.*

No. 341.]

LEGATION OF THE UNITED STATES,  
Caracas, November 7, 1899.

SIR: The state of affairs in Venezuela since my dispatch of October 24 has been explained briefly from time to time in cablegrams, copies of which will be sent by this mail.

When General Andrade left the federal district the president of the Government council, by the express mandate of the constitution, became the head of the Government. That was a fact beyond question and beyond dispute. It was at first presumed that Gen. Victor Rodriguez, who thus became the head of the Government upon the abandonment of the power and the country by General Andrade,

would continue to administer it for several weeks, and for that reason I cabled on October 21, asking permission to recognize the Rodriguez Government. It was recognized by most or all of my colleagues, but practically this mattered little whether it was recognized or not, for at the end of three days it was turned over to General Castro, who came into Caracas by the invitation of General Rodriguez to assume control of the Government.

General Castro was very heartily welcomed upon his arrival in Caracas. He was popular with all parties, apparently, until he named his cabinet, and then his troubles began. The friend of General Hernandez had assisted General Castro when he was holding Valencia with both men and supplies. Castro's army after the hard battle of Tocuyito numbered less than a thousand men and was almost without ammunition. The Hernandez following, which had also risen against Andrade, brought some 2,000 men to the standard of the revolution led by Castro. About 1,500 of these men came to Caracas in the wake of General Castro. The friends of Hernandez, who are influential and numerous in Caracas, demanded, it is understood, three important places in Castro's cabinet for men of their clique. General Castro, who had liberated General Hernandez from prison and who had been publicly embraced by the latter with professions of friendship and gratitude, was nominated minister of Fomento. He took the matter under advisement, but acting upon the counsel of some of his friends, two days after the tender of the portfolio was made slipped out of Caracas under cover of darkness, taking 1,000 or 1,200 soldiers with him. He is now leading a revolution against the de facto Government of Castro, but up to this time has been very unsuccessful, his forces having been beaten, according to reports, in two engagements. He is said by his friends to have about 1,500 men with him and to be able to rally a couple of thousand more around him. He is now thought to be making his way toward Barquisimeto, which is held by some of his followers.

It seems to me that the movement of Hernandez is ill timed, and not likely to succeed unless the leaders of the Liberal party quarrel violently among themselves. There is no reason at present to think they will do otherwise than act in concert. Hernandez represents the Conservative party—a party which has not been in power for thirty years—and lines are being sharply drawn. Both parties, with the exception of a small wing of the Liberal party, were united against Andrade, but the alliance of Liberals and Conservatives ceased, practically, as soon as Andrade left the country.

The Castro movement is, as I have cabled, fairly well established. The only fault found with General Castro on the part of the Conservatives is that he did not give half of the places, including the ministry of war, to Hernandez men, and that he has put into the cabinet a former president of the Republic, Dr. Andueza Palacio, and Juan Francisco Castillo, the former being minister of foreign affairs and the latter minister of interior. Both of these men are said to be unpopular, and the former is charged with having caused the revolution of 1892, and so with responsibility for the long train of unhappy events which followed in its wake.

General Castro in his proclamation of principles announced with much emphasis that in his Government "New men, new ideas, and new methods" would predominate. The Conservatives, taking this utterance for a text point to the composition of the cabinet, and say

with some force that both new men and new methods are painfully absent.

All of the ports in the country save one are held by the Castro Government, and all of the important cities and towns save Barquisimeto, which is of small value now in a political or military sense.

I think the united Liberal party can not at present be driven from power, but should it be, and should Hernandez gain control of the Government, another revolution is certain to follow. Men's passions are becoming aroused now, and if a long period of warfare ensues many excesses may be expected.

A good deal of robbing and much cattle stealing is reported from the interior. Private interests have suffered, and some resident foreigners have been heavy losers. Fortunately very few Americans have in any way been molested.

The opinion among both natives and foreigners that the presence of the naval vessels in these waters has had a most wholesome and restraining effect is unanimous here.

Had it not been for the presence of vessels of our own and other navies it is extremely probable that I should have been called upon to report disorder attended with bloodshed at both Puerto Cabello and La Guaira. \* \* \*

Calls for protection, for promises of protection, for aid of one kind or another make the work here extremely burdensome.

The number of naturalized American citizens scattered about this country is much larger than I supposed, and the Cubans and Porto Ricans grow both in their demands and numbers daily.

The city is a great armed camp filled with ragged and dirty, but I have no doubt valiant soldiers, who make a serious draft upon its resources, so that the question of fresh food may readily become a pressing one very soon, while the danger of an epidemic is an ever-present menace. Smallpox broke out in the political prison some few weeks ago, but fortunately it has not spread very rapidly.

The price of coffee continues low, and not more than one-half of this year's crop will be picked unless the men now under arms are permitted to go home and labor on the coffee plantations.

All of these conditions have their bearing upon the political situation, and make it easy to understand that with the economic condition of the country so unsatisfactory and unpromising it will be difficult for any Government to retain popularity for a considerable length of time unless it be administered by a man of singular courage, ability, and force of character.

I have, etc.,

FRANCIS B. LOOMIS.

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*Mr. Loomis to Mr. Hay.*

No. 342.]

LEGATION OF THE UNITED STATES,  
Caracas, November 7, 1899.

SIR: I have the honor to report that on the 26th of October the diplomatic corps met at this legation to discuss the arrival and assumption of executive power by General Castro, and to formulate an answer to the note from his minister of foreign affairs announcing the change in Government, a translated copy of which is inclosed.

After a free interchange of views it was decided to send a "note verbale," unsigned and written in the third person. All of the ministers agreed to conform to the model herein inclosed.

Two other meetings of the diplomatic corps have been held, but they were quite informal in their nature.

The members of the diplomatic corps were notified of the blockade of Puerto Cabello by means of two copies of a printed proclamation containing the decree of General Castro. These printed circulars were inclosed in a foreign office envelope and sent to each legation, no receipt being taken for them, and they were not accompanied by a written communication of any sort. The same circular was thrown about the streets of the city. It was thought that this method of announcing the blockade to the diplomatic corps was not quite courteous or regular, and the contention was made at a meeting of the corps that the least the Castro Government should have done was to send copies of the Official Gazette containing the decree to each foreign minister at Caracas.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure 1.]

*Mr. Palacio to Mr. Loomis.*

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,  
UNITED STATES OF VENEZUELA,  
Caracas, October 24, 1899.

YOUR EXCELLENCY: In accord with popular sentiment from one end of the Republic to the other, the Government established in February, 1898, has ceased to exist, and since yesterday Gen. Cipriano Castro, director and chief of the revolution, has been in charge of the executive power.

General Castro is well aware of the fact that one of the first duties of every civilized power is to preserve and strengthen the bonds of friendship with friendly nations. The new Government will take especial pleasure in maintaining the cordial relations which exist between Venezuela and the United States, and will do all in its power to work for the mutual good of the two nations.

General Castro having honored me with the portfolio of foreign affairs, it will give me extreme satisfaction to enter upon official relations with your excellency, and I therefore inclose for your legation two copies of the Official Gazette, containing an account of the transfer of the Government to the chief of the revolution, and also two copies of the same Gazette containing the first official decree of the new administration.

I am extremely pleased to offer to your excellency the homage of my distinguished consideration.

R. ANDUEZA PALACIO.

[Inclosure 2.]

*Mr. Loomis to Mr. Palacio.*

The envoy extraordinary and minister plenipotentiary of the United States of America has had the honor to receive the note that His Excellency Dr. R. Andueza Palacio was good enough to address him on the 24th instant, inclosing the numbers of the Official Gazette which announce the transfer of the executive power.

He will avail himself of the first opportunity of forwarding these for the consideration of his Government, which will doubtless send him instructions on the subject as soon as possible.

FRANCIS B. LOOMIS.

*Mr. Loomis to Mr. Hay.*

No. 343.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 7, 1899.*

SIR: The Castro Government appears to be extremely desirous of formal recognition by foreign powers, and does not conceal its anxiety in this connection.

A majority of my colleagues in the diplomatic corps have cabled their Governments for permission to formally recognize the Castro Government as a de facto government.

I suggest that authority be sent me by cable to give similar recognition when the proper time seems to have arrived. As I have said in another dispatch, the Castro Government is in possession of all the ports, all the fortified places, and of all the cities and towns in Venezuela save Barquisimeto, which is of small importance. It also possesses and uses the machinery of Government, and is the only Government of any sort in Venezuela to-day. I think it is as well established as any government is likely to be for years in Venezuela. There is reason to think that none of them may have a very long lease of life, but I do not see why this Government should not endure as long as the Andrade government did.

I have, etc.,

FRANCIS B. LOOMIS.

*Mr. Loomis to the Secretary of State.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 7, 1899.*

I think it may be to our advantage formally to recognize Castro's as a provisional government soon. Several foreign ministers have telegraphed for this permission.

LOOMIS.

*Mr. Loomis to Mr. Hay.*

LEGATION OF THE UNITED STATES,  
*Caracas, November 8, 1899.*

SIR: Referring to my cable of yesterday in which I said it might be to the advantage of the Government of the United States to recognize the Castro government as a provisional government, soon, I meant only to suggest that power be given me to do this when the course of events here seemed to indicate the proper time had arrived for such recognition. I did not mean to convey the idea that I urged immediate recognition, but, as I was limited in my expression of intention by considerations of brevity, it seemed to me this word of explanation would not be amiss.

I am, etc.,

FRANCIS B. LOOMIS.

*Mr. Hay to Mr. Loomis.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 8, 1899.

If the provisional government is effectively administering government of nation and in position to fulfill international obligations, you will enter into de facto relations.

HAY.

*Mr. Hay to Mr. Loomis.*

No. 303.]

DEPARTMENT OF STATE,  
Washington, November 18, 1899.

SIR: Señor Augusto F. Pulido, chargé of the Venezuelan legation, called at the Department yesterday afternoon to make oral announcement that, under instructions from the Venezuelan minister of foreign affairs, who appears to be the same person formerly in President Andrade's cabinet, the chargé d'affaires and consuls of Venezuela in the United States are continued in the exercise of their functions until further notice.

Mr. Pulido was thereupon told that this Government would simply ignore the fact of a change of government in Venezuela until the question of its recognition should be raised by formal announcement and request to that end, and that the Department would in the meantime conduct all necessary diplomatic business with Señor Pulido precisely the same as if no change had occurred in the home government.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Loomis.*

No. 304.]

DEPARTMENT OF STATE,  
Washington, November 20, 1899.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 8th instant, explaining that your request for authority to recognize the Castro government was not intended to imply that you urged immediate recognition, but that you desired discretionary authority to do so.

In reply, I have to say that the Department's cabled reply of November 8 was meant to cover the point of discretion.

I am, etc.,

JOHN HAY.

*Mr. Loomis to Mr. Hay.*

[Confidential.]

No. 352.]

LEGATION OF THE UNITED STATES,  
Caracas, November 20, 1899.

SIR: As I cabled you this afternoon, I have to-day entered into official relations with the de facto government of General Castro, he



having assured me many times that he possessed the machinery of government throughout the Republic, and all of the ports, cities, and towns, and that he had the support of the State governments.

I have refrained from entering into relations earlier for the reason that I wanted to see whether the Hernandez movement was likely to develop serious proportions soon. \* \* \*

General Castro has now been in the possession of the Government for a month, and Hernandez has not once offered battle or shown any disposition to fight, so I assume he is not likely to overturn the Castro government very soon.

I have, etc.,

FRANCIS B. LOOMIS.

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*Mr. Loomis to Mr. Hay.*

No. 353.]

LEGATION OF THE UNITED STATES,  
*Curacas, November 20, 1899.*

SIR: Referring to my cablegram of November 12, I have to say that Puerto Cabello was taken by the forces of General Castro, numbering about 2,000, on Saturday evening, November 11. It was a fierce and bloody battle. The attack commenced shortly after midnight on the morning of the 11th, and was continued until 5 o'clock in the afternoon. The heaviest firing was between 4 and 7 in the morning. The rifle fire was very intense, and there was some artillery fire from the fort on the hill back of the town and from the fieldpieces of the attacking party, and from Castro's gunboats in the harbor. One of the gunboats fired a shell which struck the United States consulate, but did no damage.

The defenders of the city, commanded by Gen. Antonio Paredes, did most of their fighting from behind barricades and from towers so erected as to enable them to fire over the tops of the houses.

The mortality was great. The killed and wounded probably numbered 300, and the sights about the streets the day of and the day after the fight were extremely gruesome. Many of the dead were burned or partially burned where they fell.

There was no provision for hospital service and medical attendance until the surgeon of the *Detroit* went ashore with his corps and commenced the work of caring for the wounded. He was followed by surgeons from all of the other foreign men-of-war in the harbor save the French cruiser.

The surgeons who went ashore were compelled to furnish all of the medicines, bandages, appliances, and supplies of every sort of which they made use.

Dr. Braisted, of the U. S. S. *Detroit*, has been most highly recommended by all who saw or heard of his prompt, excellent, and highly efficient work in the cause of humanity at Puerto Cabello.

Puerto Cabello was held by General Paredes, an officer appointed by General Andrade when he was President of Venezuela. Paredes continued to hold the city and its two forts after Andrade left the country, though he was directed to give up his command by Andrade's successor, acting President Gen. Victor Rodriguez, and later received a letter from General Andrade himself, urging him to turn the post over to the Castro government. Paredes declined to withdraw and announced that he would defend the city and "die in the last ditch."

His position was a hopeless one, and he caused, quite needlessly, in the opinion of intelligent persons here, a very great loss of life, besides

destroying the business of Puerto Cabello for weeks, and putting in jeopardy the lives of thousands of innocent people.

As Paredes represented no party, no faction, no government, and no flag, he was practically an outlaw, and it seems to me his action in forcing the Castro government to storm the city could probably have been prevented by the commanders of the naval vessels representing those countries which had many citizens and much valuable property in Puerto Cabello.

I have, etc.,

FRANCIS B. LOOMIS.

*Mr. Loomis to Mr. Hay.*

No. 356.]

LEGATION OF THE UNITED STATES,  
*Caracas, November 23, 1899.*

SIR: I cabled you on Monday, November 20, that I had entered into relations with the de facto government of General Castro. I told General Castro, during the course of the interview I had with him early Monday afternoon, that I was ready to enter into relations with his de facto government and that he could consider that those relations had commenced.

The next morning I sent a note to the minister of foreign affairs, former President Andueza Palacio, a copy of which, with his answer and the translation thereof, I inclose.

The Castro government was recognized as a de facto government on Saturday last, November 18, by Her Britannic Majesty's Government.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure 1.]

*Mr. Loomis to Mr. Palacio.*

LEGATION OF THE UNITED STATES,  
*Caracas, November 21, 1899.*

SIR: I beg leave to acknowledge the receipt of your excellency's very polite note of October 24, with inclosures, in which I am courteously informed that General Castro is in possession of the executive power and that he has an organized government exercising its functions throughout the Republic.

It gives me great pleasure to say that I have been authorized to enter into official relations with the de facto government of General Castro, and I venture to express the confident belief that the very agreeable and cordial intercourse which has existed between the Government of the United States and the Government of Venezuela will be continued and strengthened through the medium of the diplomatic association which I hope to have with your excellency and his government.

I take this opportunity to assure your excellency of my most distinguished consideration.

FRANCIS B. LOOMIS.

*Mr. Palacio to Mr. Loomis.*

[Translation.]

MINISTRY OF FOREIGN AFFAIRS OF THE  
UNITED STATES OF VENEZUELA,  
*Caracas, November 21, 1899.*

MR. MINISTER: I have just informed Gen. Cipriano Castro of the contents of the polite note of your excellency, in which you state that you have this day received

authority to enter into official relations with the government over which he is presiding as supreme chief of the Republic.

General Castro has been extremely pleased to learn of the cordial expressions of good will which mark the first official communication to the new Venezuelan Government from the Government of the United States, a Republic bound to ours by such natural ties.

It is also a source of extreme satisfaction for me to know that your excellency's aim in the future will be that all official intercourse with the ministry under my charge shall be pleasant and harmonious, and to attain this end I myself shall ever earnestly strive.

I avail myself with the greatest pleasure of this occasion to renew to your excellency the assurances of my most distinguished consideration.

R. ANDUEZA PALACIO.

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*Mr. Hay to Mr. Loomis.*

No. 310.]

DEPARTMENT OF STATE,  
*Washington, December 4, 1899.*

SIR: I have to acknowledge the receipt of your No. 352 of the 20th ultimo, reporting that you had on that date officially recognized the government of General Castro.

Your recognition of his government is approved.

I am, etc.,

JOHN HAY.

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