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Foreign
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1921
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THE DEPARTMENT OF STATE

/ PAPERS RELATING TO THE
FOREIGN RELATIONS
OF THE UNITED STATES,

1921

(IN TWO VOLUMES)

VOLUME I



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MESSAGES OF THE PRESIDENT OF THE UNITED STATES TO CONGRESS

MESSAGE OF APRIL 12, 1921

MEMBERS OF THE CONGRESS: You have been called in extraordinary session to give your consideration to national problems far too pressing to be long neglected. We face our tasks of legislation and administration amid conditions as difficult as our Government has ever contemplated. Under our political system the people of the United States have charged the new Congress and the new administration with the solution—the readjustments, reconstruction, and restoration which must follow in the wake of war.

It may be regretted that we were so illy prepared for war's aftermath, so little made ready to return to the ways of peace, but we are not to be discouraged. Indeed, we must be the more firmly resolved to undertake our work with high hope, and invite every factor in our citizenship to join in the effort to find our normal, onward way again.

The American people have appraised the situation, and with that tolerance and patience which go with understanding they will give to us the influence of deliberate public opinion which ultimately becomes the edict of any popular government. They are measuring some of the stern necessities, and will join in the give and take which is so essential to firm reestablishment.

First in mind must be the solution of our problems at home, even though some phases of them are inseparably linked with our foreign relations. The surest procedure in every government is to put its own house in order.

I know of no more pressing problem at home than to restrict our national expenditures within the limits of our national income, and at the same time measurably lift the burdens of war taxation from the shoulders of the American people.

One cannot be unmindful that economy is a much-employed cry, most frequently stressed in preelection appeals, but it is ours to make it an outstanding and ever-impelling purpose in both legislation and administration. The unrestrained tendency to heedless expenditure and the attending growth of public indebtedness, extending from Federal authority to that of State and municipality and including the smallest political subdivision, constitute the most dangerous phase of government to-day. The Nation cannot restrain except in its own activities, but it can be exemplar in a wholesome reversal.

The staggering load of war debt must be cared for in orderly funding and gradual liquidation. We shall hasten the solution and aid effectively in lifting the tax burdens if we strike resolutely at expenditure. It is far more easily said than done. In the fever of war our expenditures were so little questioned, the emergency was so impelling, appropriation was so unimpeded that we little noted millions and counted the Treasury inexhaustible. It will strengthen our resolution if we ever keep in mind that a continuation of such a course means inevitable disaster.

Our current expenditures are running at the rate of approximately five billions a year, and the burden is unbearable. There are two agencies to be employed in correction: One is rigid resistance in appropriation and the other is the utmost economy in administration. Let us have both. I have already charged department heads with this necessity. I am sure Congress will agree; and both Congress and the administration may safely count on the support of all right-minded citizens, because the burden is theirs. The pressure for expenditure, swelling the flow in one locality while draining another, is sure to defeat the imposition of just burdens, and the effect of our citizenship protesting outlay will be wholesome and helpful. I wish it might find its reflex in economy and thrift among the people themselves, because therein lies quicker recovery and added security for the future.

The estimates of receipts and expenditures and the statements as to the condition of the Treasury which the Secretary of the Treasury is prepared to present to you will indicate what revenues must be provided in order to carry on the Government's business and meet its current requirements and fixed-debt charges. Unless there are striking cuts in the important fields of expenditure, receipts from internal taxes can not safely be permitted to fall below \$4,000,000,000 in the fiscal years 1922 and 1923. This would mean total internal tax collections of about one billion less than in 1920 and one-half billion less than in 1921.

The most substantial relief from the tax burden must come for the present from the readjustment of internal taxes, and the revision or repeal of those taxes which have become unproductive and are so artificial and burdensome as to defeat their own purpose. A prompt and thoroughgoing revision of the internal tax laws, made with due regard to the protection of the revenues, is, in my judgment, a requisite to the revival of business activity in this country. It is earnestly hoped, therefore, that the Congress will be able to enact without delay a revision of the revenue laws and such emergency tariff measures as are necessary to protect American trade and industry.

It is of less concern whether internal taxation or tariff revision shall come first than has been popularly imagined, because we must

do both, but the practical course for earliest accomplishment will readily suggest itself to the Congress. We are committed to the repeal of the excess-profits tax and the abolition of inequities and unjustifiable exasperations in the present system.

The country does not expect and will not approve a shifting of burdens. It is more interested in wiping out the necessity for imposing them and eliminating confusion and cost in the collection.

The urgency for an instant tariff enactment, emergency in character and understood by our people that it is for the emergency only, can not be too much emphasized. I believe in the protection of American industry, and it is our purpose to prosper America first. The privileges of the American market to the foreign producer are offered too cheaply to-day, and the effect on much of our own productivity is the destruction of our self-reliance, which is the foundation of the independence and good fortune of our people. Moreover, imports should pay their fair share of our cost of government.

One who values American prosperity and maintained American standards of wage and living can have no sympathy with the proposal that easy entry and the flood of imports will cheapen our costs of living. It is more likely to destroy our capacity to buy. To-day American agriculture is menaced, and its products are down to prewar normals, yet we are endangering our fundamental industry through the high cost of transportation from farm to market and through the influx of foreign farm products, because we offer, essentially unprotected, the best market in the world. It would be better to err in protecting our basic food industry than paralyze our farm activities in the world struggle for restored exchanges.

The maturer revision of our tariff laws should be based on the policy of protection, resisting that selfishness which turns to greed, but ever concerned with that productivity at home which is the source of all abiding good fortune. It is agreed that we can not sell unless we buy, but ability to sell is based on home development and the fostering of home markets. There is little sentiment in the trade of the world. Trade can and ought to be honorable, but it knows no sympathy. While the delegates of the nations at war were debating peace terms at Paris, and while we later debated our part in completing the peace, commercial agents of other nations were opening their lines and establishing their outposts, with a forward look to the morrow's trade. It was wholly proper, and has been advantageous to them. Tardy as we are, it will be safer to hold our own markets secure, and build thereon for our trade with the world.

A very important matter is the establishment of the Government's business on a business basis. There was toleration of the easy-going, unsystematic method of handling our fiscal affairs, when indirect

taxation held the public unmindful of the Federal burden. But there is knowledge of the high cost of government to-day, and high cost of living is inseparably linked with high cost of government. There can be no complete correction of the high living cost until government's cost is notably reduced.

Let me most heartily commend the enactment of legislation providing for the national budget system. Congress has already recorded its belief in the budget. It will be a very great satisfaction to know of its early enactment, so that it may be employed in establishing the economies and business methods so essential to the minimum of expenditure.

I have said to the people we meant to have less of Government in business as well as more business in Government. It is well to have it understood that business has a right to pursue its normal, legitimate, and righteous way unimpeded, and it ought have no call to meet Government competition where all risk is borne by the Public Treasury. There is no challenge to honest and lawful business success. But Government approval of fortunate, untrammelled business does not mean toleration of restraint of trade or of maintained prices by unnatural methods. It is well to have legitimate business understand that a just Government, mindful of the interests of all the people, has a right to expect the cooperation of that legitimate business in stamping out the practices which add to unrest and inspire restrictive legislation. Anxious as we are to restore the onward flow of business, it is fair to combine assurance and warning in one utterance.

One condition in the business world may well receive your inquiry. Deflation has been in progress but has failed to reach the mark where it can be proclaimed to the great mass of consumers. Reduced cost of basic production has been recorded, but high cost of living has not yielded in like proportion. For example, the prices on grains and live stock have been deflated, but the cost of bread and meats is not adequately reflected therein. It is to be expected that nonperishable staples will be slow in yielding to lowered prices, but the maintained retail costs in perishable foods can not be justified.

I have asked the Federal Trade Commission for a report of its observations, and it attributes, in the main, the failure to adjust consumers' cost to basic production costs to the exchange of information by "open-price associations," which operate, evidently, within the law, to the very great advantage of their members and equal disadvantage to the consuming public. Without the spirit of hostility or haste in accusation of profiteering, some suitable inquiry by Congress might speed the price readjustment to normal relationship, with helpfulness to both producer and consumer. A measuring

rod of fair prices will satisfy the country and give us a business revival to end all depression and unemployment.

The great interest of both the producer and consumer—indeed, all our industrial and commercial life, from agriculture to finance—in the problems of transportation will find its reflex in your concern to aid reestablishment, to restore efficiency, and bring transportation cost into a helpful relationship rather than continue it as a hindrance to resumed activities.

It is little to be wondered that ill-considered legislation, the war strain, Government operation in heedlessness of cost, and the conflicting programs, or the lack of them, for restoration have brought about a most difficult situation, made doubly difficult by the low tide of business. All are so intimately related that no improvement will be permanent until the railways are operated efficiently at a cost within that which the traffic can bear.

If we can have it understood that Congress has no sanction for Government ownership, that Congress does not levy taxes upon the people to cover deficits in a service which should be self-sustaining, there will be an avowed foundation on which to rebuild.

Freight-carrying charges have mounted higher and higher until commerce is halted and production discouraged. Railway rates and costs of operation must be reduced.

Congress may well investigate and let the public understand wherein our system and the Federal regulations are lacking in helpfulness or hindering in restrictions. The remaining obstacles which are the heritage of capitalistic exploitation must be removed, and labor must join management in understanding that the public which pays is the public to be served, and simple justice is the right and will continue to be the right of all the people.

Transportation over the highways is little less important, but the problems relate to construction and development, and deserve your most earnest attention, because we are laying a foundation for a long time to come, and the creation is very difficult to visualize in its great possibilities.

The highways are not only feeders to the railroads and afford relief from their local burdens, they are actually lines of motor traffic in interstate commerce. They are the smaller arteries of the larger portion of our commerce, and the motor car has become an indispensable instrument in our political, social, and industrial life.

There is begun a new era in highway construction, the outlay for which runs far into hundreds of millions of dollars. Bond issues by road districts, counties, and States mount to enormous figures, and the country is facing such an outlay that it is vital that every effort shall be directed against wasted effort and unjustifiable expenditure.

The Federal Government can place no inhibition on the expenditure in the several States; but, since Congress has embarked upon a policy of assisting the States in highway improvement, wisely, I believe, it can assert a wholly becoming influence in shaping policy.

With the principle of Federal participation acceptably established, probably never to be abandoned, it is important to exert Federal influence in developing comprehensive plans looking to the promotion of commerce, and apply our expenditures in the surest way to guarantee a public return for money expended.

Large Federal outlay demands a Federal voice in the program of expenditure. Congress can not justify a mere gift from the Federal purse to the several States, to be prorated among counties for road betterment. Such a course will invite abuses which it were better to guard against in the beginning.

The laws governing Federal aid should be amended and strengthened. The Federal agency of administration should be elevated to the importance and vested with authority comparable to the work before it. And Congress ought to prescribe conditions to Federal appropriations which will necessitate a consistent program of uniformity which will justify the Federal outlay.

I know of nothing more shocking than the millions of public funds wasted in improved highways, wasted because there is no policy of maintenance. The neglect is not universal, but it is very near it. There is nothing the Congress can do more effectively to end this shocking waste than condition all Federal aid on provisions for maintenance. Highways, no matter how generous the outlay for construction, can not be maintained without patrol and constant repair. Such conditions insisted upon in the grant of Federal aid will safeguard the public which pays and guard the Federal Government against political abuses, which tend to defeat the very purposes for which we authorize Federal expenditure.

Linked with rail and highway is the problem of water transportation—inland, coastwise, and transoceanic. It is not possible, on this occasion, to suggest to Congress the additional legislation needful to meet the aspirations of our people for a merchant marine. In the emergency of war we have constructed a tonnage equaling our largest expectations. Its war cost must be discounted to the actual values of peace, and the large difference charged to the war emergency, and the pressing task is to turn our assets in tonnage to an agency of commerce.

It is not necessary to say it to Congress, but I have thought this to be a befitting occasion to give notice that the United States means to establish and maintain a great merchant marine.

Our differences of opinion as to a policy of upbuilding have been removed by the outstanding fact of our having builded. If the in-

telligent and efficient administration under the existing laws makes established service impossible, the Executive will promptly report to you. Manifestly if our laws governing American activities on the seas are such as to give advantage to those who compete with us for the carrying of our own cargoes and those which should naturally come in American bottoms through trade exchanges, then the spirit of American fair play will assert itself to give American carriers their equality of opportunity. This Republic can never realize its righteous aspirations in commerce, can never be worthy the traditions of the early days of the expanding Republic until the millions of tons of shipping which we now possess are coordinated with our inland transportation and our shipping has Government encouragement, not Government operation, in carrying our cargoes under our flag, over regularly operated routes, to every market in the world agreeable to American exchanges. It will strengthen American genius and management to have it understood that ours is an abiding determination, because carrying is second only to production in establishing and maintaining the flow of commerce to which we rightfully aspire.

It is proper to invite your attention to the importance of the question of radio communication and cables. To meet strategic, commercial, and political needs, active encouragement should be given to the extension of American-owned and operated cable and radio services. Between the United States and its possessions there should be ample communication facilities providing direct services at reasonable rates. Between the United States and other countries not only should there be adequate facilities, but these should be, so far as practicable, direct and free from foreign intermediation. Friendly cooperation should be extended to international efforts aimed at encouraging improvement of international communication facilities and designed to further the exchange of messages. Private monopolies tending to prevent the development of needed facilities should be prohibited. Government-owned facilities, wherever possible without unduly interfering with private enterprise or Government needs, should be made available for general uses. Particularly desirable is the provision of ample cable and radio services at reasonable rates for the transmission of press matter, so that the American reader may receive a wide range of news, and the foreign reader receive full accounts of American activities. The daily press of all countries may well be put in position to contribute to international understandings by the publication of interesting foreign news.

Practical experience demonstrates the need for effective regulation of both domestic and international radio operation if this newer means of intercommunication is to be fully utilized. Especially need-

ful is the provision of ample radio facilities for those services where radio only can be used, such as communication with ships at sea, with aircraft, and with out-of-the-way places. International communication by cable and radio requires cooperation between the powers concerned. Whatever the degree of control deemed advisable within the United States, Government licensing of cable landings and of radio stations transmitting and receiving international traffic seems necessary for the protection of American interests and for the securing of satisfactory reciprocal privileges.

Aviation is inseparable from either the Army or the Navy, and the Government must, in the interests of national defense, encourage its development for military and civil purposes. The encouragement of the civil development of aeronautics is especially desirable as relieving the Government largely of the expense of development, and of maintenance of an industry, now almost entirely borne by the Government through appropriations for the military, naval, and postal air services. The Air Mail Service is an important initial step in the direction of commercial aviation.

It has become a pressing duty of the Federal Government to provide for the regulation of air navigation; otherwise independent and conflicting legislation will be enacted by the various States which will hamper the development of aviation. The National Advisory Committee for Aeronautics, in a special report on this subject, has recommended the establishment of a Bureau of Aeronautics in the Department of Commerce for the Federal regulation of air navigation, which recommendation ought to have legislative approval.

I recommend the enactment of legislation establishing a Bureau of Aeronautics in the Navy Department to centralize the control of naval activities in aeronautics, and removing the restrictions on the personnel detailed to aviation in the Navy.

The Army Air Service should be continued as a coordinate combatant of the Army, and its existing organization utilized in cooperation with other agencies of the Government in the establishment of national transcontinental airways, and in cooperation with the States in the establishment of local airdromes and landing fields.

The American people expect Congress unflinchingly to voice the gratitude of the Republic in a generous and practical way to its defenders in the World War, who need the supporting arm of the Government. Our very immediate concern is for the crippled soldiers and those deeply needing the helping hand of Government. Conscious of the generous intent of Congress, and the public concern for the crippled and dependent, I invited the services of a volunteer committee to inquire into the administration of the Bureau of War Risk Insurance, the Federal Board for Vocational Training and

other agencies of Government in caring for the ex-soldiers, sailors, and marines of the World War. This committee promptly reported the chief difficulty to be the imperfect organization of governmental effort, the same lack of coordination which hinders Government efficiency in many undertakings, less noticed because the need for prompt service is less appealing.

This committee has recommended, and I convey the recommendations to you with cordial approval, that all Government agencies looking to the welfare of the ex-service men should be placed under one directing head, so that the welfare of these disabled saviors of our civilization and freedom may have the most efficient direction. It may be well to make such an official the Director General of Service to War Veterans, and place under his direction all hospitalization, vocational training, war insurance, rehabilitation, and all pensions.

The immediate extension and utilization of the Government's hospital facilities in Army and Navy will bring relief to the acute conditions most complained of, and the hospital building program may be worked out to meet the needs likely to be urgent at the time of possible completion.

The whole program requires the most thoughtful attention of Congress, for we are embarking on the performance of a sacred obligation which involves the expenditure of billions in the half century before us. Congress must perfect the policy of generous gratitude, and conscientious administration must stamp out abuses in the very beginning. We must strengthen rather than weaken the moral fiber of the beneficiaries, and humanize all efforts so that rehabilitation shall be attended by respiritualization.

During the recent political canvass the proposal was made that a department of public welfare should be created. It was indorsed and commended so strongly that I venture to call it to your attention and to suggest favorable legislative consideration.

Government's obligation affirmatively to encourage development of the highest and most efficient type of citizenship is modernly accepted, almost universally. Government rests upon the body of citizenship; it can not maintain itself on a level that keeps it out of touch and understanding with the community it serves. Enlightened governments everywhere recognize this and are giving their recognition effect in policies and programs. Certainly no government is more desirous than our own to reflect the human attitude, the purpose of making better citizens—physically, intellectually, spiritually. To this end I am convinced that such a department in the Government would be of real value. It could be made to crystallize much of rather vague generalization about social justice into solid accomplishment. Events of recent years have profoundly

impressed thinking people with the need to recognize new social forces and evolutions, to equip our citizens for dealing rightly with problems of life and social order.

In the realms of education, public health, sanitation, conditions of workers in industry, child welfare, proper amusement and recreation, the elimination of social vice, and many other subjects, the Government has already undertaken a considerable range of activities. I assume the maternity bill, already strongly approved, will be enacted promptly, thus adding to our manifestation of human interest. But these undertakings have been scattered through many departments and bureaus without coordination and with much overlapping of functions which fritters energies and magnifies the cost. Many subjects of the greatest importance are handled by bureaus within Government departments which logically have no apparent relation to them. Other subjects which might well have the earnest consideration of Federal authority have been neglected or inadequately provided for. To bring these various activities together in a single department, where the whole field could be surveyed, and where their interrelationships could be properly appraised, would make for increased effectiveness, economy, and intelligence of direction. In creating such a department it should be made plain that there is no purpose to invade fields which the States have occupied. In respect of education, for example, control and administration have rested with the States, yet the Federal Government has always aided them. National appropriations in aid of educational purposes the last fiscal year were no less than \$65,000,000. There need be no fear of undue centralization or of creating a Federal bureaucracy to dominate affairs better to be left in State control. We must, of course, avoid overlapping the activities by the several States, and we must ever resist the growing demand on the Federal Treasury for the performance of service for which the State is obligated to its citizenship.

Somewhat related to the foregoing human problems is the race question. Congress ought to wipe the stain of barbaric lynching from the banners of a free and orderly, representative democracy. We face the fact that many millions of people of African descent are numbered among our population, and that in a number of States they constitute a very large proportion of the total population. It is unnecessary to recount the difficulties incident to this condition, nor to emphasize the fact that it is a condition which can not be removed. There has been suggestion, however, that some of its difficulties might be ameliorated by a humane and enlightened consideration of it, a study of its many aspects, and an effort to formulate, if not a policy, at least a national attitude of mind calculated to bring about the most

satisfactory possible adjustment of relations between the races, and of each race to the national life. One proposal is the creation of a commission embracing representatives of both races, to study and report on the entire subject. The proposal has real merit. I am convinced that in mutual tolerance, understanding, charity, recognition of the interdependence of the races, and the maintenance of the rights of citizenship lies the road to righteous adjustment.

It is needless to call your attention to the unfinished business inherited from the preceding Congress. The appropriation bills for Army and Navy will have your early consideration.

Neither branch of the Government can be unmindful of the call for reduced expenditure for these departments of our national defense. The Government is in accord with the wish to eliminate the burdens of heavy armament. The United States ever will be in harmony with such a movement toward the higher attainments of peace. But we shall not entirely discard our agencies for defense until there is removed the need to defend. We are ready to cooperate with other nations to approximate disarmament, but merest prudence forbids that we disarm alone.

The naval program which had its beginning in what seemed the highest assurances of peace can carry no threat after the latest proof of our national unselfishness. The reasonable limitation of personnel may be combined with economies of administration to lift the burdens of excessive outlay.

The War Department is reducing the personnel of the Army from the maximum provided by law in June, 1920, to the minimum directed by Congress in a subsequent enactment. When further reduction is compatible with national security, it may well have the sanction of Congress, so that a system of voluntary military training may offer to our young manhood the advantages of physical development, discipline, and commitment to service, and constitute the Army reserve in return for the training.

Nearly two and a half years ago the World War came to an end, and yet we find ourselves to-day in the technical state of war, though actually at peace, while Europe is at technical peace, far from tranquillity and little progressed toward the hoped-for restoration.

It ill becomes us to express impatience that the European belligerents are not yet in full agreement, when we ourselves have been unable to bring constituted authority into accord in our own relations to the formally proclaimed peace.

Little avails in reciting the causes of delay in Europe or our own failure to agree. But there is no longer excuse for uncertainties respecting some phases of our foreign relationship. In the existing League of Nations, world-governing with its superpowers, this Re-

public will have no part. There can be no misinterpretation, and there will be no betrayal of the deliberate expression of the American people in the recent election; and, settled in our decision for ourselves, it is only fair to say to the world in general, and to our associates in war in particular, that the League covenant can have no sanction by us.

The aim to associate nations to prevent war, preserve peace, and promote civilization our people most cordially applauded. We yearned for this new instrument of justice, but we can have no part in a committal to an agency of force in unknown contingencies; we can recognize no super-authority.

Manifestly the highest purpose of the League of Nations was defeated in linking it with the treaty of peace and making it the enforcing agency of the victors of the war. International association for permanent peace must be conceived solely as an instrumentality of justice, unassociated with the passions of yesterday, and not so constituted as to attempt the dual functions of a political instrument of the conquerors and of an agency of peace. There can be no prosperity for the fundamental purposes sought to be achieved by any such association so long as it is an organ of any particular treaty, or committed to the attainment of the special aims of any nation or group of nations.

The American aspiration, indeed, the world aspiration, was an association of nations, based upon the application of justice and right, binding us in conference and cooperation for the prevention of war and pointing the way to a higher civilization and international fraternity in which all the world might share. In rejecting the league covenant and uttering that rejection to our own people, and to the world, we make no surrender of our hope and aim for an association to promote peace in which we would most heartily join. We wish it to be conceived in peace and dedicated to peace, and will relinquish no effort to bring the nations of the world into such fellowship, not in the surrender of national sovereignty but rejoicing in a nobler exercise of it in the advancement of human activities, amid the compensations of peaceful achievement.

In the national referendum to which I have adverted we pledged our efforts toward such association, and the pledge will be faithfully kept. In the plight of policy and performance, we told the American people we meant to seek an early establishment of peace. The United States alone among the allied and associated powers continues in a technical state of war against the Central Powers of Europe. This anomalous condition ought not to be permitted to continue. To establish the state of technical peace without further delay, I should approve a declaratory resolution by Congress to that effect, with the qualifications essential to protect all our rights. Such action would

be the simplest keeping of faith with ourselves, and could in no sense be construed as a desertion of those with whom we shared our sacrifices in war, for these powers are already at peace.

Such a resolution should undertake to do no more than thus to declare the state of peace, which all America craves. It must add no difficulty in effecting, with just reparations, the restoration for which all Europe yearns, and upon which the world's recovery must be founded. Neither former enemy nor ally can mistake America's position, because our attitude as to responsibility for the war and the necessity for just reparations already has had formal and very earnest expression.

It would be unwise to undertake to make a statement of future policy with respect to European affairs in such a declaration of a state of peace. In correcting the failure of the Executive, in negotiating the most important treaty in the history of the Nation, to recognize the constitutional powers of the Senate we would go to the other extreme, equally objectionable, if Congress or the Senate should assume the function of the Executive. Our highest duty is the preservation of the constituted powers of each, and the promotion of the spirit of cooperation so essential to our common welfare.

It would be idle to declare for separate treaties of peace with the Central Powers on the assumption that these alone would be adequate, because the situation is so involved that our peace engagements can not ignore the Old World relationship and the settlements already effected, nor is it desirable to do so in preserving our own rights and contracting our future relationships.

The wiser course would seem to be the acceptance of the confirmation of our rights and interests as already provided and to engage under the existing treaty, assuming of course, that this can be satisfactorily accomplished by such explicit reservations and modifications as will secure our absolute freedom from inadvisable commitments and safeguard all our essential interests.

Neither Congress nor the people needs my assurance that a request to negotiate needed treaties of peace would be as superfluous and unnecessary as it is technically ineffective, and I know in my own heart there is none who would wish to embarrass the Executive in the performance of his duty when we are all so eager to turn disappointment and delay into gratifying accomplishment.

Problems relating to our foreign relations bear upon the present and the future, and are of such a nature that the all important future must be deliberately considered, with greater concern than mere immediate relief from unhappy conditions. We have witnessed, yea, we have participated in the supremely tragic episode of war, but our deeper concern is in the continuing life of nations and the development of civilization.

We must not allow our vision to be impaired by the conflict among ourselves. The weariness at home and the disappointment to the world have been compensated in the proof that this Republic will surrender none of the heritage of nationality, but our rights in international relationship have to be asserted; they require establishment in compacts of amity; our part in readjustment and restoration can not be ignored, and must be defined.

With the supergoverning league definitely rejected and with the world so informed, and with the status of peace proclaimed at home, we may proceed to negotiate the covenanted relationships so essential to the recognition of all the rights everywhere of our own Nation and play our full part in joining the peoples of the world in the pursuits of peace once more. Our obligations in effecting European tranquillity, because of war's involvements, are not less impelling than our part in the war itself. This restoration must be wrought before the human procession can go onward again. We can be helpful because we are moved by no hatreds and harbor no fears. Helpfulness does not mean entanglement, and participation in economic adjustments does not mean sponsorship for treaty commitments which do not concern us, and in which we will have no part.

In an all-impelling wish to do the most and best for our own Republic and maintain its high place among nations and at the same time make the fullest offering of justice to them, I shall invite in the most practical way the advice of the Senate, after acquainting it with all the conditions to be met and obligations to be discharged, along with our own rights to be safeguarded. Prudence in making the program and confident cooperation in making it effective can not lead us far astray. We can render no effective service to humanity until we prove anew our own capacity for cooperation in the coordination of powers contemplated in the Constitution, and no covenants which ignore our associations in the war can be made for the future. More, no helpful society of nations can be founded on justice and committed to peace until the covenants reestablishing peace are sealed by the nations which were at war. To such accomplishment—to the complete reestablishment of peace and its contracted relationships, to the realization of our aspirations for nations associated for world helpfulness without world government, for world stability on which humanity's hopes are founded, we shall address ourselves, fully mindful of the high privilege and the paramount duty of the United States in this critical period of the world.

MESSAGE OF DECEMBER 6, 1921

MR. SPEAKER AND MEMBERS OF THE CONGRESS: It is a very gratifying privilege to come to the Congress with the Republic at peace with all the nations of the world. More, it is equally gratifying to

report that our country is not only free from every impending menace of war, but there are growing assurances of the permanency of the peace which we so deeply cherish.

For approximately ten years we have dwelt amid menaces of war or as participants in war's actualities, and the inevitable aftermath, with its disordered conditions, has added to the difficulties of government which adequately can not be appraised except by those who are in immediate contact and know the responsibilities. Our tasks would be less difficult if we had only ourselves to consider, but so much of the world was involved, the disordered conditions are so well-nigh universal, even among nations not engaged in actual warfare, that no permanent readjustments can be effected without consideration of our inescapable relationship to world affairs in finance and trade. Indeed, we should be unworthy of our best traditions if we were unmindful of social, moral, and political conditions which are not of direct concern to us, but which do appeal to the human sympathies and the very becoming interest of a people blest with our national good fortune.

It is not my purpose to bring to you a program of world restoration. In the main such a program must be worked out by the nations more directly concerned. They must themselves turn to the heroic remedies for the menacing conditions under which they are struggling, then we can help, and we mean to help. We shall do so unselfishly because there is compensation in the consciousness of assisting, selfishly because the commerce and international exchanges in trade, which marked our high tide of fortunate advancement, are possible only when the nations of all continents are restored to stable order and normal relationship.

In the main the contribution of this Republic to restored normalcy in the world must come through the initiative of the executive branch of the Government, but the best of intentions and most carefully considered purposes would fail utterly if the sanction and the cooperation of Congress were not cheerfully accorded.

I am very sure we shall have no conflict of opinion about constitutional duties or authority. During the anxieties of war, when necessity seemed compelling, there were excessive grants of authority and an extraordinary concentration of powers in the Chief Executive. The repeal of war-time legislation and the automatic expirations which attended the peace proclamations have put an end to these emergency excesses, but I have the wish to go further than that. I want to join you in restoring, in the most cordial way, the spirit of coordination and cooperation, and that mutuality of confidence and respect which is necessary in representative popular government.

Encroachment upon the functions of Congress or attempted dictation of its policy are not to be thought of, much less attempted, but

there is an insistent call for harmony of purpose and concord of action to speed the solution of the difficult problems confronting both the legislative and executive branches of the Government.

It is worth while to make allusion here to the character of our Government, mindful as one must be that an address to you is no less a message to all our people, for whom you speak most intimately. Ours is a popular Government through political parties. We divide along political lines, and I would ever have it so. I do not mean that partisan preferences should hinder any public servant in the performance of a conscientious and patriotic official duty. We saw partisan lines utterly obliterated when war imperiled, and our faith in the Republic was riveted anew. We ought not to find these partisan lines obstructing the expeditious solution of the urgent problems of peace.

Granting that we are fundamentally a representative popular Government, with political parties the governing agencies, I believe the political party in power should assume responsibility, determine upon policies in the conference which supplements conventions and election campaigns, and then strive for achievement through adherence to the accepted policy.

There is vastly greater security, immensely more of the national viewpoint, much larger and prompter accomplishment where our divisions are along party lines, in the broader and loftier sense, than to divide geographically, or according to pursuits, or personal following. For a century and a third, parties have been charged with responsibility and held to strict accounting. When they fail, they are relieved of authority; and the system has brought us to a national eminence no less than a world example.

Necessarily legislation is a matter of compromise. The full ideal is seldom attained. In that meeting of minds necessary to insure results, there must and will be accommodations and compromises, but in the estimate of convictions and sincere purposes the supreme responsibility to national interest must not be ignored. The shield to the high-minded public servant who adheres to party policy is manifest, but the higher purpose is the good of the Republic as a whole.

It would be ungracious to withhold acknowledgment of the really large volume and excellent quality of work accomplished by the extraordinary session of Congress which so recently adjourned. I am not unmindful of the very difficult tasks with which you were called to deal, and no one can ignore the insistent conditions which, during recent years, have called for the continued and almost exclusive attention of your membership to public work. It would suggest insincerity if I expressed complete accord with every expression recorded in your roll calls, but we are all agreed about the difficulties and the inevitable divergence of opinion in seeking the re-

duction, amelioration and readjustment of the burdens of taxation. Later on, when other problems are solved, I shall make some recommendations about renewed consideration of our tax program, but for the immediate time before us we must be content with the billion dollar reduction in the tax draft upon the people, and diminished irritations, banished uncertainty and improved methods of collection. By your sustainment of the rigid economies already inaugurated, with hoped-for extension of these economies and added efficiencies in administration, I believe further reductions may be enacted and hindering burdens abolished.

In these urgent economies we shall be immensely assisted by the budget system for which you made provision in the extraordinary session. The first budget is before you. Its preparation is a signal achievement, and the perfection of the system, a thing impossible in the few months available for its initial trial, will mark its enactment as the beginning of the greatest reformation in governmental practices since the beginning of the Republic.

There is pending a grant of authority to the administrative branch of the Government for the funding and settlement of our vast foreign loans growing out of our grant of war credits. With the hands of the executive branch held impotent to deal with these debts we are hindering urgent readjustments among our debtors and accomplishing nothing for ourselves. I think it is fair for the Congress to assume that the executive branch of the Government would adopt no major policy in dealing with these matters which would conflict with the purpose of Congress in authorizing the loans, certainly not without asking congressional approval, but there are minor problems incident to prudent loan transactions and the safeguarding of our interests which can not even be attempted without this authorization. It will be helpful to ourselves and it will improve conditions among our debtors if funding and the settlement of defaulted interest may be negotiated.

The previous Congress, deeply concerned in behalf of our merchant marine, in 1920 enacted the existing shipping law, designed for the upbuilding of the American merchant marine. Among other things provided to encourage our shipping on the world's seas, the Executive was directed to give notice of the termination of all existing commercial treaties in order to admit of reduced duties on imports carried in American bottoms. During the life of the act no Executive has complied with this order of the Congress. When the present administration came into responsibility it began an early inquiry into the failure to execute the expressed purpose of the Jones Act. Only one conclusion has been possible. Frankly, Members of House and Senate, eager as I am to join you in the making of an American merchant marine commensurate with our commerce, the denounce-

ment of our commercial treaties would involve us in a chaos of trade relationships and add indescribably to the confusion of the already disordered commercial world. Our power to do so is not disputed, but power and ships, without comity of relationship, will not give us the expanded trade which is inseparably linked with a great merchant marine. Moreover, the applied reduction of duty, for which the treaty denouncements were necessary, encouraged only the carrying of dutiable imports to our shores, while the tonnage which unfurls the flag on the seas is both free and dutiable, and the cargoes which make a nation eminent in trade are outgoing, rather than incoming.

It is not my thought to lay the problem in detail before you to-day. It is desired only to say to you that the executive branch of the Government, uninfluenced by the protest of any nation, for none has been made, is well convinced that your proposal, highly intended and heartily supported here, is so fraught with difficulties and so marked by tendencies to discourage trade expansion, that I invite your tolerance of noncompliance for a very few weeks until a plan may be presented which contemplates no greater draft upon the Public Treasury, and which, though yet too crude to offer it to-day, gives such promise of expanding our merchant marine, that it will argue its own approval. It is enough to say to-day that we are so possessed of ships, and the American intention to establish a merchant marine is so unalterable, that a plan of reimbursement, at no other cost than is contemplated in the existing act, will appeal to the pride and encourage the hope of all the American people.

There is before you the completion of the enactment of what has been termed a "permanent" tariff law, the word "permanent" being used to distinguish it from the emergency act which the Congress expedited early in the extraordinary session, and which is the law to-day. I can not too strongly urge an early completion of this necessary legislation. It is needed to stabilize our industry at home; it is essential to make more definite our trade relations abroad. More, it is vital to the preservation of many of our own industries which contribute so notably to the very lifeblood of our Nation.

There is now, and there always will be, a storm of conflicting opinion about any tariff revision. We can not go far wrong when we base our tariffs on the policy of preserving the productive activities which enhance employment and add to our national prosperity.

Again comes the reminder that we must not be unmindful of world conditions, that peoples are struggling for industrial rehabilitation and that we can not dwell in industrial and commercial exclusion and at the same time do the just thing in aiding world reconstruction and readjustment. We do not seek a selfish aloofness, and we could not profit by it, were it possible. We recognize the necessity

of buying wherever we sell, and the permanency of trade lies in its acceptable exchanges. In our pursuit of markets we must give as well as receive. We can not sell to others who do not produce, nor can we buy unless we produce at home. Sensible of every obligation of humanity, commerce and finance, linked as they are in the present world condition, it is not to be argued that we need destroy ourselves to be helpful to others. With all my heart I wish restoration to the peoples blighted by the awful World War, but the process of restoration does not lie in our acceptance of like conditions. It were better to remain on firm ground, strive for ample employment and high standards of wage at home, and point the way to balanced budgets, rigid economies, and resolute, efficient work as the necessary remedies to cure disaster.

Everything relating to trade, among ourselves and among nations, has been expanded, excessive, inflated, abnormal, and there is a madness in finance which no American policy alone will cure. We are a creditor Nation, not by normal processes, but made so by war. It is not an unworthy selfishness to seek to save ourselves, when the processes of that salvation are not only not denied to others, but commended to them. We seek to undermine for others no industry by which they subsist; we are obligated to permit the undermining of none of our own which make for employment and maintained activities.

Every contemplation, it little matters in which direction one turns, magnifies the difficulty of tariff legislation, but the necessity of the revision is magnified with it. Doubtless we are justified in seeking a more flexible policy than we have provided heretofore. I hope a way will be found to make for flexibility and elasticity, so that rates may be adjusted to meet unusual and changing conditions which can not be accurately anticipated. There are problems incident to unfair practices, and to exchanges which madness in money have made almost unsolvable. I know of no manner in which to effect this flexibility other than the extension of the powers of the Tariff Commission, so that it can adapt itself to a scientific and wholly just administration of the law.

I am not unmindful of the constitutional difficulties. These can be met by giving authority to the Chief Executive, who could proclaim additional duties to meet conditions which the Congress may designate.

At this point I must disavow any desire to enlarge the Executive's powers or add to the responsibilities of the office. They are already too large. If there were any other plan I would prefer it.

The grant of authority to proclaim would necessarily bring the Tariff Commission into new and enlarged activities, because no Executive could discharge such a duty except upon the information

acquired and recommendations made by this commission. But the plan is feasible, and the proper functioning of the board would give us a better administration of a defined policy than ever can be made possible by tariff duties prescribed without flexibility.

There is a manifest difference of opinion about the merits of American valuation. Many nations have adopted delivery valuation as the basis for collecting duties; that is, they take the cost of the imports delivered at the port of entry as the basis for levying duty. It is no radical departure, in view of varying conditions and the disordered state of money values, to provide for American valuation, but there can not be ignored the danger of such a valuation, brought to the level of our own production costs, making our tariffs prohibitive. It might do so in many instances where imports ought to be encouraged. I believe Congress ought well consider the desirability of the only promising alternative, namely, a provision authorizing proclaimed American valuation, under prescribed conditions, on any given list of articles imported.

In this proposed flexibility, authorizing increases to meet conditions so likely to change, there should also be provision for decreases. A rate may be just to-day, and entirely out of proportion six months from to-day. If our tariffs are to be made equitable, and not necessarily burden our imports and hinder our trade abroad, frequent adjustment will be necessary for years to come. Knowing the impossibility of modification by act of Congress for any one or a score of lines without involving a long array of schedules, I think we shall go a long ways toward stabilization, if there is recognition of the Tariff Commission's fitness to recommend urgent changes by proclamation.

I am sure about public opinion favoring the early determination of our tariff policy. There have been reassuring signs of a business revival from the deep slump which all the world has been experiencing. Our unemployment, which gave us deep concern only a few weeks ago, has grown encouragingly less, and new assurances and renewed confidence will attend the congressional declaration that American industry will be held secure.

Much has been said about the protective policy for ourselves making it impossible for our debtors to discharge their obligations to us. This is a contention not now pressing for decision. If we must choose between a people in idleness pressing for the payment of indebtedness, or a people resuming the normal ways of employment and carrying the credit, let us choose the latter. Sometimes we appraise largest the human ill most vivid in our minds. We have been giving, and are giving now, of our influence and appeals to minimize the likelihood of war and throw off the crushing burdens of armament. It is all very earnest, with a national soul impelling.

But a people unemployed, and gaunt with hunger, face a situation quite as disheartening as war, and our greater obligation to-day is to do the Government's part toward resuming productivity and promoting fortunate and remunerative employment.

Something more than tariff protection is required by American agriculture. To the farmer has come the earlier and the heavier burdens of readjustment. There is actual depression in our agricultural industry, while agricultural prosperity is absolutely essential to the general prosperity of the country.

Congress has sought very earnestly to provide relief. It has promptly given such temporary relief as has been possible, but the call is insistent for the permanent solution. It is inevitable that large crops lower the prices and short crops advance them. No legislation can cure that fundamental law. But there must be some economic solution for the excessive variation in returns for agricultural production.

It is rather shocking to be told, and to have the statement strongly supported, that 9,000,000 bales of cotton, raised on American plantations in a given year, will actually be worth more to the producers than 13,000,000 bales would have been. Equally shocking is the statement that 700,000,000 bushels of wheat, raised by American farmers, would bring them more money than a billion bushels. Yet these are not exaggerated statements. In a world where there are tens of millions who need food and clothing which they can not get, such a condition is sure to indict the social system which makes it possible.

In the main the remedy lies in distribution and marketing. Every proper encouragement should be given to the cooperative marketing programs. These have proven very helpful to the cooperating communities in Europe. In Russia the cooperative community has become the recognized bulwark of law and order, and saved individualism from engulfment in social paralysis. Ultimately they will be accredited with the salvation of the Russian State.

There is the appeal for this experiment. Why not try it? No one challenges the right of the farmer to a larger share of the consumer's pay for his product, no one disputes that we can not live without the farmer. He is justified in rebelling against the transportation cost. Given a fair return for his labor, he will have less occasion to appeal for financial aid; and given assurance that his labors shall not be in vain, we reassure all the people of a production sufficient to meet our National requirement and guard against disaster.

The base of the pyramid of civilization which rests upon the soil is shrinking through the drift of population from farm to city. For a generation we have been expressing more or less concern about this

tendency. Economists have warned and statesmen have deplored. We thought for a time that modern conveniences and the more intimate contact would halt the movement, but it has gone steadily on. Perhaps only grim necessity will correct it, but we ought to find a less drastic remedy.

The existing scheme of adjusting freight rates has been favoring the basing points, until industries are attracted to some centers and repelled from others. A great volume of uneconomic and wasteful transportation has attended, and the cost increased accordingly. The grain-milling and meat-packing industries afford ample illustration, and the attending concentration is readily apparent. The menaces in concentration are not limited to the retarding influences on agriculture. Manifestly the conditions and terms of railway transportation ought not be permitted to increase this undesirable tendency. We have a just pride in our great cities, but we shall find a greater pride in the Nation, which has a larger distribution of its population into the country, where comparatively self-sufficient smaller communities may blend agricultural and manufacturing interests in harmonious helpfulness and enhanced good fortune. Such a movement contemplates no destruction of things wrought, of investments made, or wealth involved. It only looks to a general policy of transportation, of distributed industry, and of highway construction, to encourage the spread of our population and restore the proper balance between city and country. The problem may well have your earnest attention.

It has been perhaps the proudest claim of our American civilization that in dealing with human relationships it has constantly moved toward such justice in distributing the product of human energy that it has improved continuously the economic status of the mass of people. Ours has been a highly productive social organization. On the way up from the elemental stages of society we have eliminated slavery and serfdom and are now far on the way to the elimination of poverty.

Through the eradication of illiteracy and the diffusion of education mankind has reached a stage where we may fairly say that in the United States equality of opportunity has been attained, though all are not prepared to embrace it. There is, indeed, a too great divergence between the economic conditions of the most and the least favored classes in the community. But even that divergence has now come to the point where we bracket the very poor and the very rich together as the least fortunate classes. Our efforts may well be directed to improving the status of both.

While this set of problems is commonly comprehended under the general phrase "Capital and labor," it is really vastly broader. It is a question of social and economic organization. Labor has become

a large contributor, through its savings, to the stock of capital; while the people who own the largest individual aggregates of capital are themselves often hard and earnest laborers. Very often it is extremely difficult to draw the line of demarcation between the two groups; to determine whether a particular individual is entitled to be set down as laborer or as capitalist. In a very large proportion of cases he is both, and when he is both he is the most useful citizen.

The right of labor to organize is just as fundamental and necessary as is the right of capital to organize. The right of labor to negotiate, to deal with and solve its particular problems in an organized way, through its chosen agents, is just as essential as is the right of capital to organize, to maintain corporations, to limit the liabilities of stockholders. Indeed, we have come to recognize that the limited liability of the citizen as a member of a labor organization closely parallels the limitation of liability of the citizen as a stockholder in a corporation for profit. Along this line of reasoning we shall make the greatest progress toward solution of our problem of capital and labor.

In the case of the corporation which enjoys the privilege of limited liability of stockholders, particularly when engaged in the public service, it is recognized that the outside public has a large concern which must be protected; and so we provide regulations, restrictions, and in some cases detailed supervision. Likewise in the case of labor organizations, we might well apply similar and equally well-defined principles of regulation and supervision in order to conserve the public's interests as affected by their operations.

Just as it is not desirable that a corporation shall be allowed to impose undue exactions upon the public, so it is not desirable that a labor organization shall be permitted to exact unfair terms of employment or subject the public to actual distresses in order to enforce its terms. Finally, just as we are earnestly seeking for procedures whereby to adjust and settle political differences between nations without resort to war, so we may well look about for means to settle the differences between organized capital and organized labor without resort to those forms of warfare which we recognize under the name of strikes, lockouts, boycotts, and the like.

As we have great bodies of law carefully regulating the organization and operations of industrial and financial corporations, as we have treaties and compacts among nations which look to the settlement of differences without the necessity of conflict in arms, so we might well have plans of conference, of common counsel, of mediation, arbitration, and judicial determination in controversies between labor and capital. To accomplish this would involve the necessity to develop a thoroughgoing code of practice in dealing with such affairs. It might be well to frankly set forth the superior interest

of the community as a whole to either the labor group or the capital group. With rights, privileges, immunities, and modes of organization thus carefully defined, it should be possible to set up judicial or quasi judicial tribunals for the consideration and determination of all disputes which menace the public welfare.

In an industrial society such as ours the strike, the lockout, and the boycott are as much out of place and as disastrous in their results as is war or armed revolution in the domain of politics. The same disposition to reasonableness, to conciliation, to recognition of the other side's point of view, the same provision of fair and recognized tribunals and processes, ought to make it possible to solve the one set of questions as easily as the other. I believe the solution is possible.

The consideration of such a policy would necessitate the exercise of care and deliberation in the construction of a code and a charter of elemental rights, dealing with the relations of employer and employee. This foundation in the law, dealing with the modern conditions of social and economic life, would hasten the building of the temple of peace in industry which a rejoicing nation would acclaim.

After each war, until the last, the Government has been enabled to give homes to its returned soldiers, and a large part of our settlement and development has attended this generous provision of land for the Nation's defenders.

There is yet unreserved approximately 200,000,000 acres in the public domain, 20,000,000 acres of which are known to be susceptible of reclamation and made fit for homes by provision for irrigation.

The Government has been assisting in the development of its remaining lands, until the estimated increase in land values in the irrigated sections is full \$500,000,000, and the crops of 1920 alone on these lands are estimated to exceed \$100,000,000. Under the law authorizing these expenditures for development the advances are to be returned, and it would be good business for the Government to provide for the reclamation of the remaining 20,000,000 acres, in addition to expediting the completion of projects long under way.

Under what is known as the coal and gas lease law, applicable also to deposits of phosphates and other minerals on the public domain, leases are now being made on the royalty basis, and are producing large revenues to the Government. Under this legislation, 10 per centum of all royalties is to be paid directly to the Federal Treasury, and of the remainder 50 per centum is to be used for reclamation of arid lands by irrigation, and 40 per centum is to be paid to the States, in which the operations are located, to be used by them for school and road purposes.

These resources are so vast, and the development is affording so reliable a basis of estimate, that the Interior Department expresses the belief that ultimately the present law will add in royalties and

payments to the treasuries of the Federal Government and the States containing these public lands a total of \$12,000,000,000. This means, of course, an added wealth of many times that sum. These prospects seem to afford every justification of Government advances in reclamation and irrigation.

Contemplating the inevitable and desirable increase of population, there is another phase of reclamation full worthy of consideration. There are 79,000,000 acres of swamp and cut-over lands which may be reclaimed and made as valuable as any farm lands we possess. These acres are largely located in Southern States, and the greater proportion is owned by the States or by private citizens. Congress has a report of the survey of this field for reclamation, and the feasibility is established. I gladly commend Federal aid, by way of advances, where State and private participation is assured.

Home making is one of the greater benefits which government can bestow. Measures are pending embodying this sound policy to which we may well adhere. It is easily possible to make available permanent homes which will provide, in turn, for prosperous American families, without injurious competition with established activities, or imposition on wealth already acquired.

While we are thinking of promoting the fortunes of our own people I am sure there is room in the sympathetic thought of America for fellow human beings who are suffering and dying of starvation in Russia. A severe drought in the Valley of the Volga has plunged 15,000,000 people into grievous famine. Our voluntary agencies are exerting themselves to the utmost to save the lives of children in this area, but it is now evident that unless relief is afforded the loss of life will extend into many millions. America can not be deaf to such a call as that.

We do not recognize the government of Russia, nor tolerate the propaganda which emanates therefrom, but we do not forget the traditions of Russian friendship. We may put aside our consideration of all international politics and fundamental differences in government. The big thing is the call of the suffering and the dying. Unreservedly I recommend the appropriation necessary to supply the American Relief Administration with 10,000,000 bushels of corn and 1,000,000 bushels of seed grains, not alone to halt the wave of death through starvation, but to enable spring planting in areas where the seed grains have been exhausted temporarily to stem starvation.

The American Relief Administration is directed in Russia by former officers of our own armies, and has fully demonstrated its ability to transport and distribute relief through American hands without hindrance or loss. The time has come to add the Government's support to the wonderful relief already wrought out of the generosity of the American private purse.

I am not unaware that we have suffering and privation at home. When it exceeds the capacity for the relief within the States concerned, it will have Federal consideration. It seems to me we should be indifferent to our own heart promptings, and out of accord with the spirit which acclaims the Christmastide, if we do not give out of our national abundance to lighten this burden of woe upon a people blameless and helpless in famine's peril.

There are a full score of topics concerning which it would be becoming to address you, and on which I hope to make report at a later time. I have alluded to the things requiring your earlier attention. However, I can not end this limited address without a suggested amendment to the organic law.

Many of us belong to that school of thought which is hesitant about altering the fundamental law. I think our tax problems, the tendency of wealth to seek nontaxable investment, and the menacing increase of public debt, Federal, State and municipal—all justify a proposal to change the Constitution so as to end the issue of nontaxable bonds. No action can change the status of the many billions outstanding, but we can guard against future encouragement of capital's paralysis, while a halt in the growth of public indebtedness would be beneficial throughout our whole land.

Such a change in the Constitution must be very thoroughly considered before submission. There ought to be known what influence it will have on the inevitable refunding of our vast national debt, how it will operate on the necessary refunding of State and municipal debt, how the advantages of Nation over State and municipality, or the contrary, may be avoided. Clearly the States would not ratify to their own apparent disadvantage. I suggest the consideration because the drift of wealth into nontaxable securities is hindering the flow of large capital to our industries, manufacturing, agricultural, and carrying, until we are discouraging the very activities which make our wealth.

Agreeable to your expressed desire and in complete accord with the purposes of the executive branch of the Government, there is in Washington, as you happily know, an International Conference now most earnestly at work on plans for the limitation of armament, a naval holiday, and the just settlement of problems which might develop into causes of international disagreement.

It is easy to believe a world-hope is centered on this Capital City. A most gratifying world-accomplishment is not improbable.

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ORGANIZATION OF A NEW INTERNATIONAL FINANCIAL CONSORTIUM

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Mar. 10	<i>From the American Group</i> Brief summary of background and aims of Consortium, with inquiry as to whether new administration is in accord therewith.	358
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Dec. 9 (278)	<i>To the Ambassador in Great Britain</i> Instructions to give assurance that no encouragement will be given flotation in the United States of Chinese loan outside Consortium but that the Government is without legal power to prevent it.	372
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DEFAULTS BY THE CHINESE GOVERNMENT ON LOANS FROM AMERICAN BANKING HOUSES

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Jan. 27 (42)	<i>To the Minister in China (tel.)</i> Instructions to remind Minister of Finance of interest due Continental and Commercial Trust and Savings Bank of Chicago and to urge payment.	375 ✓
Apr. 21 (124)	<i>To the Minister in China (tel.)</i> Instructions to urge China to meet May installment of interest on loan in order that Chinese credit will not be impaired in this country.	376 ✓
June 3	<i>From the Vice President of the Continental and Commercial Trust and Savings Bank</i> History of loans made to China by bank and by Pacific Development Corporation; disposition to effect new loan to cover obligations to both corporations provided U. S. support is assured; reminder that default on maturing loan will interfere with functioning of Consortium.	376
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PROPOSAL TO REMIT FURTHER PAYMENTS ON THE BOXER INDEMNITY

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THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT

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1921 Jan. 8 (14)	<i>From the Minister in China (tel.)</i> Signing of contract, to become effective upon ratification by company.	408
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Feb. 6 (81)	<i>From the Minister in China (tel.)</i> Premier's disposition to cancel Federal Telegraph Co. contract, due to strong pressure of British Government.	410
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Feb. 15 (5)	<i>To the Minister in Denmark (tel.)</i> Instructions to inquire whether protest against Federal Telegraph Co. contract has been made with approval of Government and, if so, by virtue of what rights. (The same, <i>mutatis mutandis</i> , to the Chargé in Japan.)	413
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Feb. 21 (7)	<i>To the Minister in Denmark (tel.)</i> Instructions to state that China is precluded by treaty of 1858 (excerpt printed) from establishing monopolies and that Danish wireless monopoly in China is in opposition to treaty rights and open-door principle.	416
Feb. 23 (34)	<i>To the Chargé in Japan (tel.)</i> Note to Foreign Office (substance printed) asserting incompetence of China, in view of existing treaties, to create in favor of third parties such rights as wireless monopoly which would exclude U. S. citizens from participation therein. (Instructions to repeat to Peking.)	417
Feb. 24 (77)	<i>To the Minister in China (tel.)</i> Characterization of communications monopoly as being repugnant to treaty rights and to principle of open door. Instructions to read to Foreign Minister paraphrase of this telegram and certain others.	418
Feb. 25	<i>To the President of the Federal Telegraph Company</i> Federal Telegraph Co. proposal to offer to American group the financing of contract with China according to Consortium terms; U. S. willingness to support financing of contract outside Consortium in case of its rejection by Consortium, provided terms are not detrimental to China's credit.	419
Mar. 2 (83)	<i>To the Minister in China (tel.)</i> Instructions to inform Foreign Office that Federal Telegraph Co. ratified contract March 1.	420
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Mar. 31 (207)	<i>From the Minister in Denmark</i> Danish note, March 29 (text printed) denying that Danish contract is monopoly as generally understood, asserting that open-door principle and most-favored-nation treaties do not apply, and presenting other arguments to support Danish position.	422
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Apr. 11 (132)	<i>From the Chargé in Japan (tel.)</i> Japanese reply, April 9 (text printed) defending the exclusive nature of the Mitsui contract, citing analogous concessions, and holding the contract to fall outside the open-door and most-favored-nation principles.	426
Apr. 19 (4511)	<i>From the Chargé in Great Britain</i> British reply, April 14 (text printed) terming Marconi contract preferential rather than monopolistic, denying injurious effect on said contract of Chinese agreement with China (Western) Electric Co., and reaffirming protest against Federal Telegraph Co. contract.	429
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June 9	<i>From the Chinese Minister</i> Inquiry whether it is U. S. intention to maintain in face of protests its position that claims of protesting Governments contravene U. S. treaty rights in China and principle of open door.	438
July 1	<i>To the Chinese Minister</i> Assurance of support of rights accruing to Federal Telegraph Co. under contract of January 8, 1921, and of refusal to participate in any monopolistic arrangements in China contrary to open-door policy.	439 ✓

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July 1 (31)	<i>To the Minister in Denmark (tel.)</i> Instructions to present note (text printed) disclaiming U. S. intention to seek retroactive annulment of Danish contractual rights, but reiterating U. S. policy of refusing to acquiesce in any arrangement for exclusive privileges. U. S. desire to terminate discussion of case.	442
July 1 (370)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to present note (text printed) continuing protest against Marconi monopoly and insisting on equality of opportunity in China. Definition of scope of Western Electric Co. contract and restatement of U. S. policy of the open door.	443
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Aug. 26 (302)	<i>From the Chargé in China (tel.)</i> Apparent intimidation of Chinese Government by British and Japanese representations. Foreign Minister's suggestion of compromise in attitude of three friendly nations.	447
Aug. 29 (242)	<i>To the Chargé in China (tel.)</i> U. S. refusal to compromise its attitude regarding open-door policy in China. Request that China take a categorical stand in matter.	448
Sept. 2 (308)	<i>From the Chargé in China (tel.)</i> Reluctance of Peking Government to face consequences of active espousal of open-door policy, in view of British and Japanese pressure. Inquiry as to lengths the United States will go to support it.	449
Sept. 3 (919)	<i>From the Chargé in Japan</i> Japanese intention, though technically not party to Mitsui contract as reported by Peking Legation, to back contract to fullest extent.	449
Sept. 7 (315)	<i>From the Chargé in China (tel.)</i> Further hesitation on part of China to agree to execution of Federal Telegraph Co. contract.	450
Sept. 27 (37)	<i>From the Minister in China</i> Signature of supplementary articles in connection with execution of wireless contract of Federal Telegraph Co., creating satisfaction in China notwithstanding protests against its execution and serious apprehension of Cabinet.	450

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Nov. 14 (396)	<i>From the Minister in China (tel.)</i> Request for Department's good offices to assist in securing funds for financing Federal Telegraph Co. contract, rendered difficult because of recent Chinese default on loan.	454
Nov. 29 (307)	<i>To the Minister in China (tel.)</i> Information for use in diplomatic discussion, if needed, regarding postponement of operations by Federal Telegraph Co. pending Chinese action to restore credit after default on loan.	455
Dec. 2 (428)	<i>From the Minister in China (tel.)</i> Renewal of protest by Great Britain against Federal Telegraph Co. contract as Chinese breach of faith; Yen's repeated expression of hope for U. S. solution of matter.	455
Dec. 5 (432)	<i>From the Minister in China (tel.)</i> Suggestion that Federal Telegraph Co. procure financial aid from War Finance Corp. in view of fact that China has been assured of complete financial success of project without recourse to public bond issue.	455
Dec. 7 (437)	<i>From the Minister in China (tel.)</i> British protest to China, November 30 (excerpt printed) claiming Chinese infringement of two agreements and breach of faith toward Great Britain by consummating agreement with Federal Telegraph Co. without awaiting outcome of British discussion with United States.	456
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POSTPONEMENT OF FURTHER REVISION OF THE CHINESE CUSTOMS SCHEDULE

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✓ 1921 Nov. 25 (302)	<i>To the Minister in China (tel.)</i> Inadvisability of consideration of surtax in China at present, since committee of Disarmament Conference is considering Chinese revenues, especially customs tariff.	458

TARIFF TREATY BETWEEN THE UNITED STATES AND CHINA, OCTOBER 20, 1920,
CONFIRMING A FIVE PERCENT AD VALOREM DUTY ON GOODS IMPORTED INTO
CHINA BY CITIZENS OF THE UNITED STATES

1920 Oct. 13 (279)	<i>To the Minister in China (tel.)</i> Desire that Chinese Minister sign tariff convention before his departure. Inquiry whether full powers previously given Chargé will suffice for signing by Minister.	458
Oct. 15	<i>From the Chinese Minister</i> Notice of receipt of instructions authorizing his signature of convention giving effect to import tariff as revised by Commission composed of delegates from China, the United States, and other powers having treaties with China.	459
Oct. 20 (657)	<i>Treaty between the United States and the Republic of China</i> Confirming a 5 percent <i>ad valorem</i> duty on goods imported into China by U. S. citizens.	459

REFUSAL BY THE DIPLOMATIC CORPS TO RECOGNIZE THE CLAIMS OF THE CANTON
GOVERNMENT UPON THE ACCUMULATED CUSTOMS SURPLUS

1918 Sept. 5	<i>From the Chargé in China (tel.)</i> Instructions sent to Canton (text printed) to call attention to U. S. legal claims upon revenues of maritime customs as security for obligations of Chinese Government, and objection to sequestration by Canton Government of any portion of such revenues.	491
1920 Dec. 7 (594)	<i>From the Minister in China</i> Circular of dean of diplomatic corps, December 3, enclosing Foreign Minister's note, December 2 (texts printed) proposing that further deductions from surplus revenues for use of southwestern provinces be canceled. Divided opinion of diplomatic corps.	492
Dec. 27 (464)	<i>From the Minister in China (tel.)</i> Argument in favor of placing entire customs surplus in hands of Peking Government. Request for instructions before proposed discussion of question by diplomatic corps.	494

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REFUSAL BY THE DIPLOMATIC CORPS TO RECOGNIZE THE CLAIMS OF THE CANTON GOVERNMENT UPON THE ACCUMULATED CUSTOMS SURPLUS—Continued

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Jan. 20 (42)	<i>From the Minister in China (tel.)</i> Threat of Canton Government to seize maritime customs revenue unless southern portion of surplus is released. British proposed retaliatory measures. Request for instructions.	495
Jan. 21	<i>From the Vice Consul in Charge at Canton (tel.)</i> Announcement by Canton Government that it will assume administration of customs within its territory on February 1 and meet its quota of foreign obligations.	495
Jan. 23 (53)	<i>From the Minister in China (tel.)</i> Telegram from Foreign Minister Wu of Canton Government (summary printed) announcing plan for control of customs service in southern provinces by Canton Government.	496
Jan. 26 (58)	<i>From the Minister in China (tel.)</i> Inadvisability of acquiescence in seizure of customs by Canton; intention to join action by other Legations to safeguard customs revenues from embroilment in politics.	496
Jan. 26 (59)	<i>From the Minister in China (tel.)</i> Telegram from diplomatic corps to senior consul at Canton (text printed) requesting notification that no interference with administration of customs will be tolerated; approval by corps of allocation of customs surplus for constructive work in south.	497
Jan. 27 (44)	<i>To the Minister in China (tel.)</i> Instructions to call attention of colleagues to Department's telegram no. 3; to be guided by Legation's telegram of Sept. 5, 1918, and to instruct Canton accordingly.	498 ✓
Jan. 29 (67)	<i>From the Minister in China (tel.)</i> Information that attention of consul at Canton has been called to Department's general attitude, but not for further individual action pending additional instructions.	498
Feb. 1	<i>From the Chinese Legation</i> Refusal of Peking Government to recognize action of Canton to control maritime customs, which is under administration of Inspectorate General for entire country.	498
Feb. 2 (72)	<i>From the Minister in China (tel.)</i> Suggestion that diplomatic body seek understanding with Chinese Government whereby entire customs revenue be earmarked for national purposes, thus insuring Southern participation in benefits and eliminating territorial question.	499
Feb. 3 (75)	<i>From the Minister in China (tel.)</i> Minister Wu's decision to postpone action regarding seizure of customs; his request for last year's surplus. Legation's recommendation for immediate allocation of entire amount to South for nonpolitical purposes.	500

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Feb. 8 (60)	<i>To the Minister in China (tel.)</i> Disapproval of withholding balances of customs surplus now in hands of Bankers' Commission as trustee for Chinese Government. Instructions to explain above and Department's telegram no. 3 to colleagues. (Instructions to repeat to consul general at Canton and to Minister Wu.)	500
Feb. 8 (81)	<i>From the Minister in China (tel.)</i> Varied views of consuls at Canton as to disposition of Southern share of customs surplus. Request for instructions prior to consideration of question by diplomatic corps.	502
Feb. 15 (89)	<i>From the Minister in China (tel.)</i> Fulfillment of instructions in Department's telegram no. 60. Forebodings of Inspector General of Customs in view of possible bankruptcy of Central Government.	502
Feb. 18 (93)	<i>From the Minister in China (tel.)</i> Canton Government's assertion that withdrawal by Peking of accumulated Southern customs surplus allocated with Peking government's consent is retroactive and <i>ultra vires</i> ; similar nature of rejection by diplomatic corps of Peking's request for these funds.	503
Mar. 1 (103)	<i>From the Minister in China (tel.)</i> Identical notes from Foreign Office to Legations asking for release of full accumulated amount, proposing itself to set aside portion for Canton conservancy work and other sums for national obligations. Request for instructions.	503
Mar. 2 (82)	<i>To the Minister in China (tel.)</i> Finality of instructions given in Department's telegrams no. 3 and no. 60.	504
Mar. 10	<i>From the Vice Consul in Charge at Canton (tel.)</i> Minister Wu's note (text printed) objecting to diplomatic corps' interference with customs administration and to continued recognition of Peking Government. Request that customs surplus be released to Inspector General of Customs.	504
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Mar. 27 (130)	<i>From the Minister in China (tel.)</i> Acceptance of plan by French. Chinese Government's gratitude to the United States.	505

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THE QUESTION OF THE ABOLITION OF EXTRATERRITORIALITY

CHINESE PRESIDENTIAL MANDATE CREATING A "COMMISSION FOR THE CONSIDERATION OF JURISDICTION"—ATTITUDE OF THE DEPARTMENT OF STATE TOWARD THE ABOLITION OF EXTRATERRITORIALITY

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1921 Feb. 24 (881)	<i>From the Minister in China</i> Mandate issued by President Hsu Shih-ch'ang, November 6, 1920, creating commission for consideration of jurisdiction with view to abolition of extraterritoriality (text printed).	505
July 20	<i>Memorandum by the Chief of the Division of Far Eastern Affairs, Department of State</i> Chinese overtures to France and Great Britain regarding relinquishment of extraterritoriality; U. S. view that China has not yet made sufficient progress to justify such relinquishment.	508

DISORDERS AT ICHANG AND THE CONSEQUENT DEMAND BY THE POWERS THAT THE CHINESE MILITARY AUTHORITIES BE HELD PERSONALLY RESPONSIBLE FOR INJURY TO FOREIGN INTERESTS IN CHINA

1921 June 24 (230)	<i>From the Chargé in China (tel.)</i> Proposed establishment of foreign settlement area at Ichang and military neutralization of Hankow and other treaty ports for safety of foreigners, in view of recent lootings and mutinies in vicinity. Request for instructions.	509
June 29 (184)	<i>To the Chargé in China (tel.)</i> Opposition to principle of military neutralization and view that establishment of international settlement would not assure safety of Ichang.	509
July 5 (247)	<i>From the Chargé in China (tel.)</i> Vote by all members of diplomatic corps except U. S. Chargé to make representations to China for establishing foreign settlement and military neutralization. Arguments in favor thereof.	510
July 6 (248)	<i>From the Chargé in China (tel.)</i> Report of mass meeting of Chinese at Ichang resulting in resolutions in favor of establishing international settlement there.	510
July 12 (193)	<i>To the Chargé in China (tel.)</i> Opinion that international settlement would precipitate troubles. Inquiry whether situation in Ichang area is considered critical enough to warrant warning Americans to leave, as at Urga.	511
July 15 (198)	<i>To the Chargé in China (tel.)</i> Suggestion as alternative measure of joint note from diplomatic body to Chinese Government warning against further mutiny, holding military authorities responsible therefor, denying them asylum, and claiming right to damages for injuries.	511
July 15 (262)	<i>From the Chargé in China (tel.)</i> Information that Ichang situation is not deemed so critical as Urga; restraining influence of foreign gunboats.	511

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July 30 (216)	<i>To the Chargé in China (tel.)</i> Instructions to ascertain whether British Legation will support U. S. proposal; refusal to accept proposal of diplomatic corps. Inquiry as to report that Ichang lootings were without indication of antiforeign feeling.	512
Aug. 5 (279)	<i>From the Chargé in China (tel.)</i> British disposition to support U. S. suggestions but anticipation of failure for asylum proposal; suggestion for foreign investigating commission.	513
Aug. 6	<i>From the Secretary of the British Embassy</i> Request for reconsideration of Department's decision regarding international settlement at Ichang in view of possible acquiescence by China and approval by other powers concerned.	513
Aug. 9 (222)	<i>To the Chargé in China (tel.)</i> Hopes of early consent of diplomatic body to action suggested in Department's telegram no. 198 in view of urgency of situation.	514
Aug. 9 (283)	<i>From the Chargé in China (tel.)</i> Inquiry whether denial of asylum is to follow proscription of offender by Chinese Government, or is to be denied by diplomatic body or nationality concerned.	514
Aug. 9 (284)	<i>From the Chargé in China (tel.)</i> Lack of evidence of antiforeign feeling or particular consideration for foreigners in Ichang lootings.	515
Aug. 12 (226)	<i>To the Chargé in China (tel.)</i> View that denial of asylum should be left to diplomatic body and nationality concerned.	515
Aug. 16 (288)	<i>From the Chargé in China (tel.)</i> Chargé's assent to desire of diplomatic corps to give warning against future mutinies in general.	515
Aug. 23 (295)	<i>From the Chargé in China (tel.)</i> Acceptance by diplomatic body of Department's proposals with proviso that they apply retroactively to Ichang and Wuchang, and that entire diplomatic body support each claim. Inquiry as to approval of delaying note to Foreign Office.	515
Aug. 26 (238)	<i>To the Chargé in China (tel.)</i> Approval of arrangement, with reservation of right to refuse support to any claim deemed unjust.	516
Sept. 29 (45)	<i>From the Minister in China</i> Note from dean of diplomatic corps to Chinese Foreign Minister, August 30 (text printed) protesting against looting and making reservations in sense of U. S. suggestion; and Foreign Minister's reply, September 23 (text printed) stating that remedial measures have been taken.	516

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CONSIDERATION OF MEASURES FOR THE PROTECTION OF AMERICAN COMMERCE
ON THE YANGTZE

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1921 Jan. 28 (479)	<i>From the Consul in Charge at Shanghai</i> Recommendations for strengthening U. S. naval forces on Yangtze for protection of U. S. missionaries and business interests in view of increasing irresponsibility of Government.	520
Feb. 3 (811)	<i>From the Minister in China</i> Lack of adequate protection for Americans in interior of China and necessity for U. S. Government to take steps to supply such protection.	522
Mar. 28	<i>To the Secretary of the Navy</i> Transmittal of despatch no. 479 from the consul in charge at Shanghai and inquiry as to feasibility of increasing naval forces in Yangtze Valley.	522
Apr. 5 (6320- 278:21)	<i>From the Secretary of the Navy</i> Lack of suitable vessels for increasing patrol of Yangtze at present, although recommendations to Congress have been made. Consideration of detailing flag officer on suitable vessel to administer Yangtze patrol force.	523
May 26	<i>From the Vice Consul in Charge at Canton (tel.)</i> Request by U. S. companies, operating Chinese-owned vessels under charter, for permission to fly U. S. flag together with Chinese flag.	523
May 31	<i>To the Vice Consul in Charge at Canton (tel.)</i> Permission for American charterers to fly U. S. flag at masthead of Chinese-owned vessels.	524
July 27 (27403- 340:1)	<i>From the Secretary of the Navy</i> Report from Commander in Chief of U. S. Asiatic Fleet, at Shanghai, June 7 (text printed) disapproving of practice of sending armed guards on board Chinese junks for protection of American goods.	524
Aug. 6	<i>From the Secretary of the British Embassy</i> British opinion that concerted naval action should be planned to provide for contingencies in China. Inquiry as to U. S. intentions.	525
Aug. 22	<i>To the Secretary of the Navy</i> Transmittal of despatch from Hankow recommending that naval convoys be provided for protection of American-chartered junks in danger zones of Yangtze. Inquiry whether plan is possible.	526 ✓
Aug. 24 (6320- 312)	<i>From the Secretary of the Navy</i> Adequacy from U. S. Navy standpoint of patrol measures providing for cooperation with principal powers in contingencies in Yangtze Valley:	527

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CONSIDERATION OF MEASURES FOR THE PROTECTION OF AMERICAN COMMERCE
ON THE YANGTZE—Continued

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1921 Sept. 2 (27403-340:5)	<i>From the Secretary of the Navy</i> Inquiry as to legitimacy of providing convoys for protection of U. S. chartered junks. Report, July 2, from Commander in Chief of U. S. Asiatic Fleet regarding policy followed in conduct of naval operations in Yangtze River and enclosing statement of general policy regarding protection afforded by river gunboats (texts printed).	528
Oct. 18	<i>To the Secretary of the Navy</i> U. S. right under treaty to protect American commerce in Chinese waters open to foreign trade; willingness to leave to discretion of Commander in Chief question as to when and to what extent escorts should be furnished foreign vessels carrying U. S. goods.	530
Oct. 25 (27403-340:5)	<i>From the Acting Secretary of the Navy</i> Notification of Commander in Chief relative to State Department's decision in letter of October 18, 1921, with instructions to be governed by spirit thereof.	531
Nov. 2 (169)	<i>From the Vice Consul in Charge at Chungking</i> Report on situation in Yangtze area. Vice consul's protest against firing on U. S. vessels, and assurance by authorities of measures for their protection.	532
Nov. 8 (152)	<i>From the Minister in China</i> Unwillingness of Chinese officials to sanction use of U. S. flag on Chinese-owned junks chartered by American firms. Request for instructions.	533

EFFORTS TO PREVENT RELAXATION OF THE AGREEMENT AMONG THE POWERS
TO PROHIBIT THE EXPORTATION OF ARMS TO CHINA

1921 Jan. 3	<i>From the British Embassy</i> Japanese <i>note verbale</i> to British Embassy in Tokyo regarding apparent disregard of arms agreement by Great Britain, Italy, and the United States.	534
Jan. 5 (262)	<i>From the Ambassador in Italy</i> Note from Japanese Embassy in Italy, December 30, 1920 (text printed) summarizing verbal representations made by Japanese Ambassador to Foreign Minister against disregard of arms agreement and requesting assurances that embargo will be observed.	535
Jan. 7 (9)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to affirm U. S. observance of restrictions upon export of war material to China, imposed under war powers which may be withdrawn by Congress at any time.	536
Jan. 18	<i>To the British Chargé</i> Memorandum (text printed) tracing U. S. policy of banning export of airplanes to China, and removing said ban on strictly commercial planes one year after British approval of Vickers contract for similar aircraft.	537

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EFFORTS TO PREVENT RELAXATION OF THE AGREEMENT AMONG THE POWERS
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1921 Jan. 20 (43)	<i>From the Minister in China (tel.)</i> Foreign Office request, November 22, 1920 (text printed) that machinery for manufacture of cartridges and guns ordered from U. S. firm be denied delivery to Kwangtung. British and Japanese representations against <i>Woudrichem</i> shipments for completion of arsenal by U. S. workmen. Request for instructions.	539
Jan. 21 (48)	<i>From the Minister in China (tel.)</i> Foreign Minister's note, January 20 (text printed) again urging that arsenal machinery stored in Kwangtung be withheld from authorities in that province.	540
Jan. 22 (50)	<i>From the Minister in China (tel.)</i> Status of arsenal machinery in Kwangtung. Further representations by Premier against release of machinery to Kwangtung; promise that Central Government will purchase equipment upon lifting of arms embargo.	541
Jan. 25 (279)	<i>From the Ambassador in Italy</i> Foreign Office <i>note verbale</i> , January 22 (text printed) stating that provision of arms to China was made pursuant to contracts made prior to arms embargo agreement and for which reservation was made when signing agreement.	541
Jan. 27 (4130)	<i>From the Ambassador in Great Britain</i> British note, January 22 (text printed) claiming that export to China of airplanes by Vickers Co. constitutes no violation of arms embargo but, in view of Consortium agreement, holding inexpedient further Chinese purchases of aircraft. Consequent cancellation of contract of another British firm.	542
Jan. 28 (46)	<i>To the Minister in China (tel.)</i> Information that <i>Woudrichem</i> carried general cargo including machinery apparently for commercial use and hence allowed to be exported under license.	544
Feb. 2	<i>Memorandum by Mr. Nelson T. Johnson, Division of Far Eastern Affairs, Department of State</i> Conference with British Secretary of Embassy on subject of Handley-Page airplane contract; British disapproval on ground that contract contravenes paragraph 2 of Consortium agreement and U. S. allegation of British inconsistency in view of approval of Vickers and Marconi contracts.	545
Feb. 23	<i>Memorandum by the Chief of the Division of Far Eastern Affairs, Department of State</i> Further discussions with Secretary of British Embassy regarding cooperation of the two nations in seeking to prevent relaxation of the arms embargo and in opposing contracts such as Handley-Page as violating the spirit of the Consortium.	546
Mar. 1	<i>From the Secretary of the British Embassy</i> Statements to demonstrate that Vickers' contract does not violate arms embargo and that rejection of Handley-Page contract was based on ground of Consortium rather than embargo.	548

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Date and number	Subject	Page
1921 Mar. 14 (218)	<i>From the British Ambassador</i> Pressure by Japanese merchants on their Government for carrying out existing contracts with China because of U. S. and British alleged violations of embargo. Suggestions of joint U. S. and British action in Tokyo with view of preventing contemplated relaxation of embargo.	550
Mar. 14	<i>To the Chairman of the Senate Committee on Foreign Relations</i> Renewal of Lansing's request that Pub. Res. No. 22 of Mar. 14, 1912, be amended to permit U. S. cooperation with other powers in restricting arms exports to China, in view of repeal of certain sections of Espionage Act that permitted establishment of embargo.	551
Mar. 19 (49)	<i>To the Chargé in Japan (tel.)</i> Instructions to present notification of termination of legal basis for U. S. participation in arms embargo and of U. S. intention to obtain substitute legislation so that embargo may continue. Denial of knowledge that machinery shipment to Canton violated embargo and counter-charge of alleged violations by Japanese munitions factory at Liutaokou.	552
✓ Mar. 24	<i>To the British Embassy</i> Explanations regarding machinery sent to Canton and refusal to support transfer of Handley-Page contract to Americans after British approval of contract was refused.	553
Mar. 30 (249)	<i>From the British Embassy</i> Inquiry whether U. S. representative in Tokyo will be instructed to make representations separately or conjointly with British colleague to prevent relaxation of embargo by Japan.	554
Apr. 18	<i>To the British Embassy</i> Inadvisability of further U. S. formal action at Tokyo pending renewal by Congress of necessary legal authority to control shipments of arms to China.	555
Apr. 26 (145)	<i>From the Chargé in Japan (tel.)</i> Japanese representations, April 25 (text printed) regarding U. S. violations of embargo by machinery shipments to Canton and explanation as to innocent nature of Japanese factory for explosives in China.	556
June 14 (857)	<i>From the Chargé in Japan</i> Foreign Office note, May 25 (text printed) giving details concerning alleged U. S. violations of embargo in China.	557
Aug. 12	<i>To the Chairman of the Senate Committee on Foreign Relations</i> Request for information as to likelihood that Pub. Res. No. 22 will be amended to furnish authority to continue arms embargo to China.	559
Sept. 12	<i>To the Secretary of War</i> Request that Acting Governor General of Philippines be informed of Department's attitude in regard to Chinese arms embargo and its desire that no encouragement be given shipments of munitions to China.	560
✓ Dec. 8 (917)	<i>From the British Ambassador</i> Information that large supplies of machinery for Canton arsenal are being received from Manila; hope that effort will be made to enforce embargo.	561

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EFFORTS TO PREVENT RELAXATION OF THE AGREEMENT AMONG THE POWERS TO PROHIBIT THE EXPORTATION OF ARMS TO CHINA—Continued

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Dec. 13 (258)	<i>From the Ambassador in Italy (tel.)</i> Japanese Charge's proposal that U. S. Ambassador protest to Italy against delivery of arms and ammunition to Chinese at Shanhaikwan. Request for instructions.	562
Dec. 17 (261)	<i>From the Ambassador in Italy (tel.)</i> Instructions from Great Britain and France to their representatives to join in protest to Italy; delay pending similar authorization from United States.	563
Dec. 23 (203)	<i>To the Ambassador in Italy (tel.)</i> Authorization, separately but simultaneously with British, French, and Japanese colleagues, to make representations as suggested in Ambassador's telegram no. 258.	563
Dec. 31	<i>To the British Ambassador</i> Statement of U. S. consul general at Canton that there is no foundation for report that further large supplies of machinery are being received from Manila for Canton arsenal.	564

OPERATION OF THE CHINESE EASTERN RAILWAY

PROPOSAL BY THE UNITED STATES TO AMEND THE ALLIED AGREEMENT OF JANUARY 1919—FAILURE OF CERTAIN POWERS TO DISCHARGE THEIR OBLIGATIONS TO THE RAILWAY—AMERICAN AND BRITISH OPPOSITION TO A CHINESE PROPOSAL FOR A BOND ISSUE—REJECTION BY JAPAN OF THE AMERICAN PROPOSAL FOR A REVISED PLAN OF OPERATION

1921 Jan. 13	<i>Department Memorandum</i> Proposed amendments to Inter-Allied Agreement of January 1919 for operation of Chinese Eastern Railway, replacing the Inter-Allied Committee by a Technical Board with enlarged powers. Confidence in ability of railway to succeed if prompt payment of military transport bills is made by various nations and normal industrial conditions return. (Substance telegraphed to Great Britain with instructions to repeat to France, and to Japan with instructions to repeat to China.)	564
Jan. 29	<i>From the Acting President of the Technical Board (tel.)</i> Financial difficulties of railway despite increased earnings. Failure of Japan to make payment on transportation bills. Flotation of short-time notes to meet fuel payments not including Fushun coal indebtedness to Japan. Tense situation between Chita and Japanese.	567
Feb. 18 (97)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to call attention to possibility of seizure of control of Chinese Eastern by military forces in Manchuria in financial crisis, and to report whether British Ambassador is authorized to discuss proposals to solve issue by more effective Inter-Allied control. (Sent, <i>mutatis mutandis</i> , to the Ambassador in France.)	567

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1921 Feb. 19	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs, Department of State</i></p> <p>Conversation of Feb. 18 with Secretary of Japanese Embassy regarding financial condition of Chinese Eastern in which representations were made regarding Japan's failure to pay its debts to railway; statement of amounts due from various nations and of U. S. payments made.</p>	568
Feb. 21 (133)	<p><i>From the Ambassador in Great Britain (tel.)</i></p> <p>Information that Foreign Office will send instructions to Ambassador Geddes to discuss proposals regarding reorganized operation of Chinese Eastern.</p>	570
Feb. 23	<p><i>From the Acting President of the Technical Board (tel.)</i></p> <p>Payment of current expenses of railway made possible by Board's restriction in disbursements and by payment of half million yen by Japan; pressure from other creditors.</p>	571
Feb. 24 (143)	<p><i>From the Ambassador in France (tel.)</i></p> <p>Foreign Office assurance that French Ambassador will be instructed to consider proposals regarding operation of Chinese Eastern.</p>	571
Mar. 3	<p><i>From the Acting President of the Technical Board (tel.)</i></p> <p>Projected request by Far Eastern Republic that activities of Railway Committee and Technical Board be extended to include all Far Eastern Republic railways.</p>	571
Mar. 4	<p><i>From the Acting President of the Technical Board (tel.)</i></p> <p>Opening of Manchuria Station frontier, presaging some improvement in earnings but not sufficient to cover overdue liabilities.</p>	572
Mar. 14	<p><i>From the Acting President of the Technical Board (tel.)</i></p> <p>Insistence of Chinese directors on inexpedient disbursements; intrigues and unimproved conditions despite increased earnings; efforts to secure loan with possibility of approaching Japanese banks. Appeal for aid in intolerable situation.</p>	572
Mar. 18	<p><i>To the Consul at Harbin (tel.)</i></p> <p>For Johnson: Inopportuneness of extending activities of Railway Committee and Technical Board to railways of Far Eastern Republic.</p>	572
Mar. 24	<p><i>To the British Ambassador</i></p> <p>Transmittal of Department memorandum of January 13 for comments and suggestions to facilitate understanding between the two Governments as to course to be pursued in connection with Chinese Eastern.</p>	573
Mar. 24	<p><i>To the Consul at Harbin (tel.)</i></p> <p>Stevens to Johnson: Efforts by Department to amend Allied agreement; necessity of holding situation despite intrigues.</p>	573
Apr. 4 (141)	<p><i>From the Minister in China (tel.)</i></p> <p>Railway Board intention to urge payment of amount due railway for evacuation of Czecho-Slovak troops, understood to be inter-Allied obligation. Request for instructions since charge may be made against established U. S. Government credits.</p>	574

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Apr. 9	<i>From the Acting President of the Technical Board (tel.)</i> Increase in movement of goods via Vladivostok following rate reductions; interference by Japanese with return movement of cars, and Board's protest through Peking Legations to Japanese and Chinese authorities.	575
Apr. 12 (152)	<i>From the Minister in China (tel.)</i> Receipt of instructions by British Legation to consult U. S. Minister regarding reorganization of railway; inquiry as to other governments approached on subject and authority to discuss proposal.	575
Apr. 13 (114)	<i>To the Minister in China (tel.)</i> Instructions to impress upon British Minister importance of British cooperation in proposal, which as yet has been communicated only to his Government.	575
Apr. 13 (154)	<i>From the Minister in China (tel.)</i> Inquiry as to attitude toward protest to Chinese and Japanese authorities regarding return movement of cars.	576
Apr. 13 (115)	<i>To the Minister in China (tel.)</i> For Johnson also: U. S. negotiations with Prague and Paris to secure payment of Czech transportation bill to Chinese Eastern: refusal to consider furnishing funds by United States pending satisfactory adjustment of question of railway control.	576
Apr. 18	<i>From the Acting President of the Technical Board (tel.)</i> Renewed demands by Chinese railway directors for improper payments to Chinese; Technical Board's refusal.	577
Apr. 25	<i>To the British Ambassador</i> Inquiry as to British disposition toward reorganization of railway control; advantage of an understanding between the two Governments before presenting to other interested nations the plan which would secure Stevens' position as head of Technical Board.	577
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Apr. 30	<i>To the Consul at Harbin (tel.)</i> Stevens to Johnson: Necessity for instructions to railway management to make no payments except those authorized by Technical Board.	579
May 4	<i>From the Acting President of the Technical Board (tel.)</i> Enumeration of specific acts of aggression on part of Chinese military causing interference with operation of Chinese Eastern.	580
May 14 (370)	<i>From the British Chargé</i> British favorable attitude toward reorganization plan but conviction that Japan and China would oppose any increase in international control of railway. Recommendation that these and other interested countries be consulted in matter.	580

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1921 May 16 (844)	<i>To the Ambassador in France</i> Transmittal of Department memorandum of January 13 and recapitulation of negotiations with Great Britain regarding railway reorganization, for information. (Sent, <i>mutatis mutandis</i> , to the Chargé in Japan and Minister in China. Memorandum only sent to Chargé in Great Britain.)	581
May 17 (147)	<i>To the Minister in China (tel.)</i> Instructions to make representations against interference with Technical Board's authority by Chinese military forces in view of Chinese assurances that supplementary agreement of October 2, 1920, would not affect Board's control. Decision not to make representations to Japan.	583
May 20	<i>To the Counselor of the British Embassy</i> Expression of regret at British viewpoint which seems to doom cooperation in proposals for reorganizing system of international control of Chinese Eastern.	584
May 21 (173)	<i>From the Chargé in Japan (tel.)</i> From Peking: Concurrence in British view as to Chinese and Japanese opposition to proposals, with added information that evidence is shown of increasing independence of Chinese regarding railroad matters.	584
May 26 (203)	<i>From the Minister in China (tel.)</i> Appointment of Wang as Director of Railroad Bureau; his possible approval of international control of railway if based on a new international agreement.	585
May 27 (406)	<i>From the British Ambassador</i> Further exposition of British attitude toward U. S. proposals denying unwillingness to cooperate and reiterating recommendation to sound out various governments concerned.	585
June 3	<i>To the Consul at Vladivostok (tel.)</i> Instructions to assume duties of U. S. representative on Inter-Allied Committee in addition to duties as consul.	586
June 4 (209)	<i>From the Minister in China (tel.)</i> Chinese readiness to cooperate with Technical Board, pleading need for military precaution against menace of Russian reactionary forces.	586
June 21 (481)	<i>From the British Ambassador</i> British opposition to Japanese loan to Chinese Eastern negotiated through Russian manager. Japanese disavowal of government participation. Japanese intimation of possibility of Consortium loan to China.	587
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June 27 (232)	<i>From the Chargé in China (tel.)</i> Discussions between Chinese and Russo-Asiatic Bank regarding issuance by Railway Board of Directors of bonds to cover debt of railway to China, also for bonds for sale on open market as occasion requires.	589

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1921 June 28	<i>To the British Embassy</i> Concurrence in British stand in opposing Japanese loan to Chinese Eastern. Gratification at knowledge of Japanese attitude toward Consortium loan.	589
June 28 (181)	<i>To the Chargé in China (tel.)</i> Instructions to inquire as to correctness of report regarding loan conversations between Chinese and Russo-Asiatic Bank and whether China proposes to cooperate with Technical Board in matter.	590
July 6	<i>From the President of the Technical Board (tel.)</i> Technical Board's stand that Russian manager has no right to negotiate loan without its consent; confirmation of report of railway indebtedness to South Manchuria for coal, and need for payment of bills for transportation due railway; approval of inter-Allied loan if expended by Board.	590
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July 11 (192)	<i>To the Chargé in China (tel.)</i> Instructions to impress upon Chinese Government inadvisability of authorizing any financial commitments which would alter status of rights and interests in Chinese Eastern.	591
July 13 (258)	<i>From the Chargé in China (tel.)</i> China's hesitation to accept Stevens' views as to Government cooperation regarding finance. Inquiry as to what Technical Board or governments concerned have to offer in place of proposed bond issue.	592
July 14	<i>To the Chinese Legation</i> Representations against proposed bond issue by Board of Directors as preparing way for alteration of status of railway, thus complicating interests of China. Willingness to consider Technical Board's recommendation or to cooperate with other interested nations regarding loan.	592
July 15 (405)	<i>To the Ambassador in Great Britain (tel.)</i> Transmittal of substance of memorandum of July 14, 1921, sent to Chinese Legation, with instructions to inform Foreign Office and suggest similar British representations to China. (Instructions to repeat to Embassy at Paris.)	594
July 15 (111)	<i>To the Chargé in Japan (tel.)</i> Transmittal of memorandum of July 14, 1921, sent to Chinese Legation; instructions to inform British colleague. (Instructions to repeat to Peking and Stevens.)	594
July 16 (248)	<i>From the Chargé in Japan (tel.)</i> From Peking: Chinese promise of cooperation and abandonment of bond issue at present.	594
July 25 (611)	<i>From the Ambassador in Great Britain (tel.)</i> British instructions to British Minister at Peking to support U. S. views regarding bond issue if question is raised.	595

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Aug. 2 (122)	<i>To the Chargé in Japan (tel.)</i> Instructions informally to present plan for reorganization of supervision of Chinese Eastern as set forth in Department memorandum of January 13. (Instructions to repeat to Peking and Stevens for information.)	596
Aug. 2 (438)	<i>To the Ambassador in Great Britain (tel.)</i> Information that Japan has been approached informally regarding reorganization of Chinese railway supervision; hope for British indication to Japanese of support for proposal. (Instructions to repeat to Paris for information.)	596
Aug. 3 (123)	<i>To the Chargé in Japan (tel.)</i> For Stevens and Peking also: Chinese memorandum (substance printed) stating that China proposes to abide by Inter-Allied Agreement regarding Chinese Eastern and to cooperate with Technical Board, adding that no bond issue is needed at present. Inquiry as to Stevens' views and recommendations on subject.	597
Aug. 6 (280)	<i>From the Chargé in China (tel.)</i> Chinese apprehension with regard to U. S. ideas of future of Chinese Eastern and request for written statement on subject.	598
Aug. 8	<i>To Messrs. J. P. Morgan & Company</i> Regret at decision of American group to refuse loan to Chinese Eastern, in view of its international importance and potentialities in connection with open-door policy.	598
Aug. 9	<i>From the President of the Technical Board (tel.)</i> China's aim to control railway regardless of Russian rights. Recommendations that Technical Board pass resolution promising Allied loan under restrictions, and that Powers bring pressure to force Chinese acquiescence.	599
Aug. 10	<i>From the Chief of the Division of Far Eastern Affairs, Department of State</i> Suggestion of personal interview with Chinese Minister to explain that U. S. ideas regarding future of Chinese Eastern are preservation of Chinese and Russian rights and its efficient operation. (Footnote: Conveyance of above views in interview between Secretary of State and Chinese Minister.)	599
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Sept. 24	<i>From the President of the Technical Board (tel.)</i> Confirmation of report that Japanese are negotiating for purchase or lease of Ussuri Railway through South Manchuria Railway. Urgency of preventing such arrangement.	605
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Sept. 30	<i>From the President of the Technical Board (tel.)</i> Statement of amounts owed by various nations to Chinese Eastern for military transportation.	606
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Nov. 2 (93)	<i>To the Ambassador in France</i> Instructions to make inquiry as to reorganization and present legal and financial status of Russo-Asiatic Bank in view of Stevens' report that France desires this bank to continue as financial agent of Chinese Eastern. (Similar instructions sent also to the representatives in Great Britain, Italy, Japan, and China for their information.)	610
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Dec. 6 (410)	<i>From the Ambassador in Japan (tel.)</i> From Caldwell: Statement by Foreign Minister of Far Eastern Republic denying any intention of seizing Chinese Eastern, affirming negotiations for joint operation with China.	612
Dec. 9 (413)	<i>From the Ambassador in Japan (tel.)</i> From Caldwell: Written statement from Foreign Minister confirming verbal statement that only Soviet Russia and China and to some extent Far Eastern Republic have right to arrange international control of Chinese Eastern.	612
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JAPANESE PROPOSALS FOR A SETTLEMENT OF THE SHANTUNG QUESTION—THEIR REJECTION BY CHINA

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Undated	<i>Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador, August 18, 1921</i> Discussion of U. S. desire for full statement of Japanese intentions before making any suggestions to China as to direct negotiations.	616
Sept. 8	<i>From the Japanese Ambassador</i> Outline of terms proposed by Japan for settlement of Shantung question.	617
Sept. 16	<i>From the Japanese Ambassador</i> Published statement (text printed) announcing submission of Japanese terms to China on September 7 with request that China enter into negotiations.	618
Sept. 19 (263)	<i>To the Minister in China (tel.)</i> Conversations with Japanese Ambassador in which objectionable features of Japan's terms are pointed out. Advice to China through its Minister to make public counter-proposals for consideration at Washington collaterally, and not as part of conference, in view of Japan's claim to treaty rights in matter. (Instructions to repeat to Tokyo.)	619
Undated [Rec'd Oct. 7]	<i>From the Chinese Minister</i> Text of Chinese note of October 5 to Japan pointing out objections to Japan's terms, chiefly the lease-hold of Kiaochow, joint operation of Shantung Railway, administration of customhouse, retaining of public property, military operations.	622
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Oct. 29 (289)	<i>To the Minister in China (tel.)</i> Discussion with Chinese Minister of Japanese comments of October 15, in which advisability of China's negotiating directly with Japan was suggested, rather than having question presented for decision of Disarmament Conference where majority of nations taking part is committed to peace treaty.	628
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CANCELATION OF THE SINO-JAPANESE MILITARY PACT OF MARCH 1918

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COLOMBIA

RATIFICATION ADVISED BY THE UNITED STATES SENATE OF THE TREATY OF APRIL 6, 1914, BETWEEN THE UNITED STATES AND COLOMBIA

1921 Apr. 15 (798)	<i>To the Minister in Panama</i> Statement by Panaman special representative at Washington that boundary clause in proposed Colombian treaty will be acceptable to Panama, and that direct understanding between his country and Colombia is advisable.	638
Apr. 21 (17)	<i>To the Chargé in Colombia (tel.)</i> Instructions to state that advice and consent of Senate has been given for ratification of modified treaty of April 6, 1914, as amended by agreement with Colombia.	638
Apr. 27 (19)	<i>To the Chargé in Colombia (tel.)</i> Instructions to present notification of Senate reservation (excerpt printed) denying to Colombia free passage through the Canal of its troops, ships, etc., in event of war between Colombia and any other country.	639
Sept. 27 (5402)	<i>From the Colombian Minister</i> Request for interpretation of Senate reservation as denying Colombia any concession in exemption dues as stipulated in art. I of treaty, and not as debarring Colombian troops in time of war from Canal privileges granted other belligerents.	639
Oct. 3	<i>To the Colombian Minister</i> Interpretation of Senate reservation as debarring Colombia in time of war from passage, free of tolls, for troops, etc., thus placing that nation on equal footing with other nations. (Footnote: Instructions, October 4, to U. S. Minister in Colombia to inform Government of this interpretation.)	640
Oct. 5	<i>Message of President Suárez to the Colombian National Congress</i> Advantages to be derived from acceptance of modified treaty of April 6, 1914, chief purposes of which are determination of boundary, improvement of relations with the United States, immunities in interoceanic transportation, and indemnities.	641
Dec. 24 (64)	<i>From the Minister in Colombia (tel.)</i> Signature by Executive and Foreign Minister of law accepting U. S. modifications in treaty of April 6, 1914.	644

COSTA RICA

BRITISH CLAIMS AGAINST COSTA RICA

REFUSAL BY THE AMERICAN GOVERNMENT TO SUPPORT THE BRITISH GOVERNMENT
IN DEMANDING ARBITRATION ON THE VALIDITY OF THE AMORY CONCESSION—
DECISION BY COSTA RICA TO ACCEPT ARBITRATION OF THE CLAIMS OF JOHN M.
AMORY AND SON AND THE ROYAL BANK OF CANADA

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Feb. 24 (20)	<i>From the Chargé in Costa Rica (tel.)</i> British threat to boycott Costa Rican goods if Congress repudiated agreement for arbitration.	646
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Mar. 7 (42)	<i>From the Consul at San José</i> Rejection by Congress of Amory concession protocol.	648
Mar. 23 (233)	<i>From the British Ambassador</i> British desire for U. S. cooperation in demanding arbitration of validity of Amory concession in view of somewhat similar case involving the Anglo-American Oil Co. of Abyssinia.	649 ✓
Apr. 5 (4445)	<i>From the Chargé in Great Britain</i> Report of consul general at London, April 4 (excerpt printed) discrediting British statement that Anglo-American Oil Co. has requested British support in Abyssinia and citing British employment of obstructive tactics against company.	649 ✓
Apr. 15 (216)	<i>To the Chargé in Great Britain (tel.)</i> Note for Foreign Office (substance printed) citing publication of U. S. policy of nonsupport of U. S. citizens in transactions with Tinoco administration before British interests in Amory concession were made known; concealment of British interests in contract until after its cancelation by Costa Rican Congress.	651 ✓
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May 9 (356)	<i>From the British Ambassador</i> Desire for U. S. support in demand for arbitration of Amory concession; opinion that case would not receive impartial hearing by Supreme Court of Costa Rica because of presence of justices appointed by same body which voided concession.	661 ✓

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BRITISH CLAIMS AGAINST COSTA RICA—Continued

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July 19 (36)	<i>To the Chargé in Costa Rica (tel.)</i> Instructions to state that U. S. assertions to Great Britain cannot be construed as granting <i>carte blanche</i> in negotiations regarding Amory concession and that the United States refuses to be bound by any arbitral award.	664
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Oct. 24 (129)	<i>From the Chargé in Costa Rica (tel.)</i> President's statement that Royal Bank of Canada volunteers to advance loan to Costa Rica and to undertake consolidation of foreign and internal debts.	666
Nov. 6 (130)	<i>From the Chargé in Costa Rica (tel.)</i> Convocation of Congress in extra session to deal with proposed loan from Royal Bank of Canada.	666
Nov. 15 (131)	<i>From the Chargé in Costa Rica (tel.)</i> British ultimatum demanding that Royal Bank claim be settled by direct action or that both claims be submitted to arbitration, approving of Chief Justice Taft as arbitrator.	666
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COSTA RICA

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CUBA

ELECTION OF PRESIDENT ZAYAS

ARRIVAL OF GENERAL ENOCH H. CROWDER IN CUBA—SUPPLEMENTAL PARTIAL ELECTIONS OF MARCH 15 AND 26, 1921; DECISION BY THE LIBERAL PARTY NOT TO PARTICIPATE—STATEMENT BY THE UNITED STATES GOVERNMENT ACCEPTING THE RESULTS OF THE PARTIAL ELECTIONS—DRAFTING OF A PROGRAM OF ADMINISTRATION BY PRESIDENT ZAYAS—INVITATION TO GENERAL MENOCA TO CALL AT THE DEPARTMENT WHEN PASSING THROUGH THE UNITED STATES AFTER HIS RETIREMENT

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ELECTION OF PRESIDENT ZAYAS—Continued

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Feb. 16 (30)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Liberals' suggestion of compromise candidate by voluntary retirement from Presidential race by both Gómez and Zayas, leaving their respective electors unpledged; Liberal Party threat to withdraw from special elections otherwise. Objections to above suggestion.	675
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Feb. 26 (32)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Abandonment of plan to withdraw candidates, hence no necessity for publication of Department's telegram no. 55. Failure of first meeting of conciliation committee because of disputes between factions; possibility of efforts to delay decisions of Supreme Court in order to force intervention.	678
Feb. 28 (34)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Resolutions adopted by executive committees of two parties agreeing as to procedure in elections, including use of armed forces and policing, in interest of public order and fair elections.	680
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Apr. 29	<i>From the Cuban Minister</i> Inquiry as to correctness of statement given to press by Gómez regarding his recent conversations in Washington. Request for comment from Department for publication in Cuba.	693
May 2	<i>From the Representative on Special Mission in Cuba</i> Ex-President Menocal's desire for invitation to visit Washington; his intention to discuss financial situation in Cuba and its remedy, and also Sugar Sales Commission decree.	693
May 3	<i>To the Cuban Minister</i> Characterization of press statement of conversation with Gómez in Washington as inaccurate and misleading.	694
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June 17 (121)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Instructions to express to President Zayas satisfaction over program of administration and to urge necessity for utilizing services of Crowder in solving financial and other problems.	695
June 20	<i>From the Representative on Special Mission in Cuba</i> Transmittal of paraphrase of Department's telegram no. 121 as delivered to President Zayas.	696

PROJECT FOR A LOAN

PROPOSAL BY PRESIDENT ZAYAS FOR AN INTERNAL AND AN EXTERNAL LOAN; INSISTENCE BY THE UNITED STATES GOVERNMENT UPON LIMITATION OF THE CUBAN BUDGET; PROJECT FOR A LOAN OF \$50,000,000 FROM J. P. MORGAN & COMPANY; STIPULATION BY THE UNITED STATES GOVERNMENT THAT A SURPLUS OF CUBAN REVENUES OVER EXPENDITURES BE MAINTAINED; DISAGREEMENT WITH PRESIDENT ZAYAS OVER THE OBSERVANCE OF HIS COMMITMENTS; SANCTION OF THE LOAN WITHHELD BY THE UNITED STATES GOVERNMENT

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June 20 (78)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Receipt of incomplete statement of national finances from President, which will be completed by U. S. expert accountant. President's view that loan is not yet necessary.	699
June 25 (81)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Report of U. S. accountant showing possible deficit of 46 millions. President's suggestion of new foreign loan of 70 millions, creation of new revenues, and drastic economies.	699
June 29 (126)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Request for views regarding New York bankers' maximum loan of 50 millions to Cuba, with a commission acceptable to U. S. Government and bankers to administer proceeds and control portion of revenues to meet bond service. U. S. approval of a Cuban delegation to negotiate loan.	700 ✓
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July 1 (86)	<i>From the Representative on Special Mission in Cuba (tel.)</i> President's submission of interior loan plan for U. S. consideration. His acceptance, in principle, of U. S. bankers' plan for foreign loan, with powers of administrative commission to parallel those of U. S. War Finance Corp.	703
July 8 (89)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Appointment of joint Congressional committee by Executive decree with invitation to Crowder to sit in advisory capacity. Call of extra session of Congress.	704
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July 13	<i>From Messrs. J. P. Morgan & Company</i> Necessity for some effective control over Cuban finances in case of projected loan; suggestion of appointment of Cuban officials on nomination of lending company, and with U. S. approval.	705 ✓
July 15 (131)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Instructions to state that although loan cannot be effected until budget is revised downward and revenues upward, matters can be expedited by sending Cuban delegation to the United States to discuss terms with bankers.	706

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July 27 (94)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Arrangements for dispatch of Cuban delegation to Washington to discuss tariff and loan.	709
Aug. 1	<i>To the Representative on Special Mission in Cuba</i> Memorandum (text printed) reporting substance of conversations between U. S. officials, Cubans, and bankers: conclusion that instead of interior loan an external loan of 50 millions is essential to meet deficit and relieve sugar situation, that revenues must be sufficient to service loan, and that Cuban delegation should proceed forthwith to the United States to begin negotiations.	709
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Aug. 17 (104)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Consideration in House of pending budget bill as passed in Senate. Failure of Congressional committee to consult Crowder; latter's view that provisions of proposed budget and of piecemeal tax laws in external loan statute will prove inadequate.	718
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Aug. 18 (146)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Instructions to inform President that budget bill as passed by Cuban Congress does not meet U. S. approval.	720
Aug. 19 (106)	<i>From the Representative on Special Mission in Cuba (tel.)</i> President's consent to defer further action on loan legislation and request that U. S. demand for veto of budget bill be deferred, claiming power under terms of bill to limit expenditures and promising amendment appropriating excess tax receipts to liquidation of floating indebtedness.	721

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Sept. 11 (112)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Recommendation that under terms of Platt Amendment U. S. approval be withheld from projected budget bill of 65 millions and that drastic cuts be insisted upon.	729
Sept. 15 (152)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Information that Cuban commission has been requested to supply detailed statement of government expenditures to justify proposed 65-million budget. Instructions to press for smaller budget unless need for large one is clearly shown.	731
Sept. 24	<i>From the Representative on Special Mission in Cuba</i> Official statement of monthly revenues of Cuban Treasury, May 1 to September 22, 1921 (text printed) indicating that, unless revenues are increased or the budget reduced, there will be no surplus for meeting additional debt or floating indebtedness.	732
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Sept. 25 (119)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Indication that total receipts for present fiscal year will barely exceed expenditures. Recommendation that Morgan representative be sent to convince Government of grave character of financial problem and of conditions upon which aid can be obtained.	734

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Oct. 13 (124)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Return of Morgan representatives with understanding that correspondence between them and President constitutes agreement for advance loan. Complaints and possible protests of other banks.	748
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Oct. 26 (129)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Advance loan statute and President's letter of transmittal (excerpts printed). President's request for U. S. approval of advance loan as part of program of economic reconstruction and step toward larger loan. Crowder's recommendation that Department reserve freedom of action in case of permanent loan.	755
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Nov. 19 (179)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Instructions to call President's attention to fact that budgets far exceed maximum to which President promised to adhere and that they exceed revenues likely to be collected. U. S. refusal to sanction loan until these objections are met.	759
Nov. 22 (180)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: U. S. disposition to sanction advance loan provided Cuban President give assurances, preferably in writing, that further reductions in budget will be effected, and indicate branches of Government in which such economies will take place and their probable extent.	761
Nov. 23 (138)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Recommendation for acceptance of President's assurances for revision of budget for fiscal year 1922-23; necessity for greater cut in budget for current fiscal year to prevent large deficit and to enable approval of loan.	763
Nov. 27 (143)	<i>From the Representative on Special Mission in Cuba (tel.)</i> President's reply (text printed) promising further reductions in budget for current fiscal year, offering figures in support thereof. Statement showing that President's estimates do not accord with his previous commitments, there being no clear promise of substantial reductions; facts which indicate that new loan should not be sanctioned.	764
Nov. 30 (133)	<i>To the Chargé in Cuba (tel.)</i> For Crowder: Instructions to impress upon President, as condition for U. S. approval of loan, necessity for limiting budget to 50 millions plus such additional sum as he may demonstrate to be required, and to give written statement of this proof and proposed economies.	767
Dec. 10 (149)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Conference with President and Secretaries of State and War regarding budget question and possible economies. Failure of Cuban officials to appreciate seriousness of situation.	768
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Dec. 25 (156)	<i>From the Representative on Special Mission in Cuba (tel.)</i> Notification to President of delayed departure until decree has been signed and promulgated.	772
Dec. 28 ✓	<i>To President Harding</i> Secretary Hoover's recommendation (text printed) for immediate settlement of loan contract between Cuba and J. P. Morgan & Co. Summary of loan negotiations with Cuba and prospect of their early approval after issuance of Presidential decree on budget.	772

MEASURES TO RESTORE THE CREDIT OF CUBAN BANKS

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May 10	<i>To the British Ambassador</i> Desire that objections to Crabites be withdrawn; however, consent would be given to designation of Ellery Cory Stowell. Return of letters addressed to Justice Holmes, etc., as unnecessary.	914
Sept. 20	<i>To the British Ambassador</i> Expression of regret that neither of U. S. nominations has met with approval; objections to British choice; designation of Jasper Yeates Brinton as U. S. final nomination. Possibility of U. S. refusal to consent to renewal of existing arrangement with regard to Mixed Court in Egypt, if these nominations not acceptable.	915
Oct. 26 (32)	<i>From the Agent and Consul General at Cairo (tel.)</i> Acceptance of Brinton for American vacancy. Foreign Minister's request for U. S. consent to prolongation of Mixed Courts according to arrangement proposed by Egypt.	916

ADHERENCE BY THE UNITED STATES TO AN INDEFINITE PROROGATION OF THE MIXED COURTS

1921 Oct. 12 (31)	<i>From the Agent and Consul General at Cairo (tel.)</i> Government's request for U. S. adherence to prolongation of courts for indefinite period from November 1, 1921, under Egyptian reservation of right to end them with year's notice.	916
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EGYPT

ADHERENCE BY THE UNITED STATES TO AN INDEFINITE PROROGATION OF THE MIXED COURTS—Continued

Date and number	Subject	Page
1921 Oct. 18 (20)	<i>To the Agent and Consul General at Cairo (tel.)</i> Information for British Embassy that U. S. position regarding Mixed Court arrangement is contingent upon action on U. S. nominations for Appellate Court.	916
Oct. 27 (21)	<i>To the Agent and Consul General at Cairo (tel.)</i> Instructions to state that the United States consents to prolongation of Mixed Court arrangement for indefinite period from November 1 next, subject to right to withdraw adherence at any time after one year.	917
Nov. 25 (189)	<i>From the Chargé at Cairo</i> Foreign Office note, November 17 (text printed) requesting interpretation of phraseology of U. S. reservations.	917
1922 Feb. 24 (4)	<i>To the Agent and Consul General at Cairo</i> Instructions to state that in consenting to prolongation of Mixed Court arrangement, right is reserved to withdraw adherence at any time without notice after expiration of one year from November 1, 1921.	919

FRANCE

NEGOTIATIONS TO ENSURE RECOGNITION OF THE RIGHTS OF THE UNITED STATES IN TERRITORIES UNDER MANDATE

1921 Aug. 7 (377)	<i>To the Ambassador in France (tel.)</i> Memorandum of U. S. views (text printed) relative to draft A and B mandates for certain enemy territory and claim of right to participation in measures for disposition thereof, submitting certain modifications in text. (Sent also to the Ambassador in Italy and the Chargé in Japan; substance to Ambassador in Great Britain.)	922
Dec. 29 (1094)	<i>From the Ambassador in France</i> Foreign Office note, December 22 (text printed) offering guaranty to U. S. citizens of same rights and privileges in mandated territories enjoyed by League members, and offering to consult U. S. Government before modifying mandates.	925

MAINTENANCE OF THE CAPITULATORY RIGHTS OF AMERICAN CITIZENS IN SYRIA

1921 Mar. 3 (251)	<i>From the Consul in Charge at Beirut</i> Negotiations with French High Commissioner to secure discontinuance of new taxes levied on foreigners contrary to capitulatory exemptions; promised discontinuance, pending submission of a new schedule of taxes to capitulatory powers for their approval.	929
July 6 (334)	<i>From the Consul in Charge at Beirut</i> Instructions of French High Commissioner to counselors in administrative zones, May 7 (text printed) ordering suspension of collection of taxes on foreigners and requesting list of taxes for presentation to consular corps for approval.	930

FRANCE

MAINTENANCE OF THE CAPITULATORY RIGHTS OF AMERICAN CITIZENS IN SYRIA—
Continued

Date and number	Subject	Page
1921 Oct. 13 (57)	<i>From the Consul in Charge at Damascus</i> Verbal agreement of Damascus authorities with U. S. interpretation of art. IV of the treaty of 1830 that U. S. citizens accused of crime should be turned over to consular jurisdiction. Case of Nejib Meshaka.	932
Nov. 2 (437)	<i>From the Consul in Charge at Beirut</i> Submission of new schedule of taxes to consular corps and their decision to draw up joint resolution on subject for submission to their respective Governments.	933
Dec. 27 (103)	<i>From the Consul in Charge at Damascus</i> Note from French High Commissioner to French Delegate at Damascus, December 19 (text printed) upholding U. S. interpretation of art. IV of treaty of 1830. Consul's treatment of Haddad case.	934
1922 Jan. 21	<i>From the Consul in Charge at Beirut (tel.)</i> Report on completion of deliberations of consular corps on schedule of taxes; discussion of proposed judicial reforms, submitted for U. S. consideration.	936

FRENCH REGULATIONS APPLICABLE TO AMERICAN CITIZENS OF FRENCH ORIGIN
REGARDED BY FRANCE AS DESERTERS OR DEFAULTERS DURING THE WORLD
WAR

1919 Nov. 22 (283)	<i>To the Ambassador in France</i> Instructions to request assurances that U. S. citizens of French origin will be free from molestation for failure to comply with French military regulations upon return to France for temporary sojourn, provided they present official evidence of compliance with U. S. military service regulations.	937
1920 Jan. 15 (729)	<i>From the Ambassador in France</i> French reply, January 5 (text printed) refusing assurances requested.	938
Mar. 31 (408)	<i>To the Ambassador in France</i> Instructions to use good offices in endeavor to render assistance to U. S. citizens coming under French requirements and to reserve right to make further representations. Request for report on cases pending and on allowance made by France for military services rendered in U. S. Army.	940
June 4 (1261)	<i>From the Ambassador in France</i> Note from Foreign Minister to French Ambassador at Washington (text printed) regarding benefit extended to Frenchmen passed over or considered as defaulters who have taken service in U. S. Army on French front.	941
June 18 (1295)	<i>From the Ambassador in France</i> Foreign Minister's note, June 7 (text printed) defining status of deserters and several classes of defaulters, who, having acquired U. S. nationality, take up residence on French territory.	943

FRANCE

FRENCH REGULATIONS APPLICABLE TO AMERICAN CITIZENS OF FRENCH ORIGIN,
ETC.—Continued

Date and number	Subject	Page
1920 Aug. 30 (589)	<i>To the Ambassador in France</i> Instructions to request amplification of third classification of despatch no. 1295 regarding defaulters; U. S. interpretation that deduction is to be allowed for service in U. S. Army whether or not on French front.	945
1921 Feb. 15 (87)	<i>To the Ambassador in France (tel.)</i> Request that French consuls in New York and elsewhere be instructed to desist from insistence upon U. S. citizens of French origin renouncing allegiance to the United States when applying for passport visas. Suggestion for negotiation of a naturalization treaty.	946
Mar. 31 (2300)	<i>From the Ambassador in France</i> Circular, March 10, by French Minister of War to various French military authorities (text printed) promulgating regulations applicable to U. S. citizens of French origin regarded by France as deserters or defaulters during the war, conceding equivalence in service in U. S. Army, and not necessarily in France.	947
Apr. 1 (2297)	<i>From the Ambassador in France</i> French reply, March 24 (text printed) stating it is duty of French agents to inform applicants for visas of conditions of admission to French territory and outlining special difficulties in way of concluding naturalization treaty.	950

FAILURE TO AGREE UPON THE RECIPROCAL USE OF THE ANNAPOLIS AND
LAFAYETTE RADIO STATIONS FOR TRANSMITTING OFFICIAL MESSAGES

1920 Nov. 24 (1833)	<i>From the Ambassador in France</i> French note, November 22 (text printed) in reply to U. S. representations that France should authorize delegates to Preliminary Communications Conference to discuss reciprocal use of Annapolis and Lafayette radio stations for official messages. French objections to such arrangement.	957
Dec. 20 (D N C 12479- 1072: 43)	<i>From the Secretary of the Navy</i> Draft of proposed agreement between Navy Department and French Department of Posts and Telegraphs (text printed) providing for official reciprocal use without charge of Lafayette and Annapolis radio stations, to be submitted for French ratification.	959
1921 Feb. 15	<i>To the Secretary of the Navy</i> French acceptance of arts. 1, 3, and 4 of proposed agreement but objections to art. 2 on ground that use of Lafayette station for broadcasting official messages to navies of two Governments would interfere with commercial traffic.	960
Feb. 18 (Op-20- A)	<i>From the Secretary of the Navy</i> Desirability of Lafayette station for radiograms to naval vessels owing to greater range and better service than can be obtained by Lyons station, advocated by French. Request for good offices.	961

FRANCE

FAILURE TO AGREE UPON THE RECIPROCAL USE OF THE ANNAPOLIS AND LAFAYETTE RADIO STATIONS, ETC.—Continued

Date and number	Subject	Page
1921 Nov. 7 (711)	<i>From the Ambassador in France</i> French note, November 4 (text printed) declining to acquiesce in U. S. desire for use of Lafayette station for transmission of messages to U. S. vessels.	961
MISSION OF M. RENÉ VIVIANI TO THE UNITED STATES		
1921 Mar. 11 (2218)	<i>From the Ambassador in France</i> French press statement (text printed) regarding ex-Premier Viviani's visit to the United States immediately after inauguration of President Harding, bringing message of congratulations, gratitude, and good will of France.	962
Undated	<i>Memorandum by the Under Secretary of State</i> Interview of Mar. 30 between Viviani, Jusserand, Secretary of State, and Under Secretary on French debt to the United States, German reparations, U. S. opposition to Treaty of Versailles, separate peace, and League of Nations.	964

GENERAL

RELATIONS OF THE UNITED STATES WITH THE CONFERENCE OF AMBASSADORS, THE REPARATION COMMISSION, AND THE SUPREME COUNCIL

763.72119/10799a : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, December 15, 1920—5 p.m.

1703. Discontinuance of participation in meetings of the Council of Ambassadors has practically been decided upon. I should like to have your views as to the best procedure if and when the decision is made effective.

DAVIS

462.00 R 29/419a : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, December 15, 1920—6 p.m.

1704. B-170. For Boyden's¹ personal information. Department has practically decided upon full withdrawal of participation by United States on Reparation Commission as well as on other commissions in Europe. If you have opinions and suggestions for best carrying out such decision, Department invites you to send them.

DAVIS

763.72119/10801 : Telegram

*The Ambassador in France (Wallace) to the Acting Secretary
of State*

[Paraphrase]

PARIS, December 17, 1920—9 p.m.

[Received December 18—1:40 a.m.]

2021. Your telegram 1703, December 15. A brief warning period would be desirable. It might be provided by fixing a future date after which we would withdraw from the Conference. If you should

¹Roland W. Boyden, American unofficial representative on the Reparation Commission.

so direct, I would notify the titular president of the Conference, Monsieur Leygues, and simultaneously inform my colleagues informally of Department's decision. I should like to receive instructions concerning any explanatory statements you wish me to make, especially to the press, unless the formal note to the president contains reason for our action in withdrawing. I ask earnestly that you make no final decision before you receive personal letter² forwarded in today's pouch and containing considerations I believe to be of greatest importance.

WALLACE

462.00 R 29/420 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

[Paraphrase]

PARIS, December 18, 1920—9 p.m.

[Received December 20—10:55 a.m.]

2026. B-356 to Davis. Your B-170. Until definitely instructed, Embassy will keep matter confidential.

1. Any method of withdrawal from the Reparation Commission by this Administration would, it seems to me, appear undignified. Only the election has occurred to change situation, and this may be interpreted to mean modification or even abandonment of the League, or it may be thought inconclusive, depending chiefly upon the opinion of the interpreter. However, it is very difficult to see in the election any mandate to withdraw support from such other treaty matters as those handled by Reparation Commission. Among the advantages that unofficial representation gives to us are: keeping in touch with the Commission's work and also with work under other provisions of the treaty for the protection of our interests, the dye question, the advantage to Europe as well as to us through our opportunity to use our influence for reasonable administration and interpretation. The particular demands upon Germany and especially the fixing of the indemnity are a case in point. For unless indemnity and deliveries and particular payments are subject to sound limitations financially and economically, Germany cannot remain solvent, and German solvency which is still possible is of importance to us. And finally, whatever action the new Administration may take in regard to the League, it must arrange new settlement with the Allies and Germany or ratify treaty with or without changes. To leave behind it favorable conditions for a settlement is probably sound policy for this Administration. The most recent information

² Not found in Department files.

on developments under the treaty, their cause, their effect, the policies and aims of the powers, and the probable effect of rejection, modification, or acceptance of particular provisions of the treaty by United States is obviously one of the conditions. To embarrass the new Administration for political purposes will inevitably appear to be the object of withdrawal. The fact that I ought to be at home is at least counterbalanced by the natural opportunities always acquired on one's present job plus my very slight Republican tendency, so take my opinion for what it may be worth.

2. Procedure appears simple, after decision to withdraw once made. Simultaneous notice to Commission with definite date of withdrawal as well as notice to Governments will be the courteous procedure. Although I favor the shortest period consistent with courtesy, I feel that notice of two or more weeks should be given to avoid abruptness. Unless the dye interest is abandoned, negotiations from outside with the appropriate service of Reparation Commission will be essential. Questions such as tankers would have to be discussed with the Commission by the Embassy. Liquidation of our organization here and at Vienna will probably be easy and expeditious. Although we may vacate this building on notice of one month, we cannot count upon ridding ourselves of financial obligations in less than two, since sub-tenants must receive fair treatment. On date of withdrawal Reparation Commission payments for our rent and office expenses would end. Payments to some but not all like Bayne, Hodge, supported by us but now paid directly by the Commission, would cease. Difficult to estimate what the obligation to treat all these people fairly would cost, for after withdrawal Department must make all payments. I have urged Doctor Taylor, who planned to join us early in January, to come earlier, but as I have received no news of his sailing date, I think it important Department remind him. Uncertainty also about Rhea, but I think it unlikely he will return though he considered so doing. Boyden.

WALLACE

763.72119/10801 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, January 8, 1921—2 p.m.

19. Your letter December 17³ and telegram 2021, December 17, 9 p.m., concerning our nonparticipation in Council of Ambassadors. Letter was sent to President for his consideration. Final decision

³ Not found in Department files.

to withdraw from representation on the Council of Ambassadors has been made after due consideration of entire situation. You may declare to the President of the Council of Ambassadors and to your colleagues when informing them of this withdrawal that Department has taken part in the conferences to keep itself informed on matters having to do with the treaty while the treaty was under consideration by the United States and, primarily, to share in settlement of questions concerning the armistice. The occasion for further representation on the Council by the United States seems to have passed since this country has not accepted the Treaty of Versailles and as the most important questions raised by the armistice have been disposed of. The Department authorizes you to state its earnest appreciation for the courtesies you have received while participating in the meetings.

Boyden will remain unofficially until further instructions on the Reparation Commission. This for his information as well as your own.

DAVIS

763.72119/10874a : Circular telegram

*The Acting Secretary of State to Diplomatic Representatives
in Certain Countries*⁴

WASHINGTON, January 12, 1921—1 p.m.

For your information. It has been decided to discontinue our representation on the Council of Ambassadors. In announcing this action to his colleagues and to the President of the Council of Ambassadors, Mr. Wallace was instructed to state that the United States had participated in the Conference primarily for the purpose of dealing with questions relating to the armistice and also to keep conversant with questions relating to the treaty pending the action of the United States on the treaty, and to express the sincere appreciation of the American Government for all the courtesies extended to him. As the most important questions relating to the armistice have been disposed of and as the United States has not ratified the treaty of Versailles, there appears to be no further occasion for continued representation by the United States on the Council of Ambassadors. For your further information. Boyden will until further instructed continue unofficially on the Reparation Committee.

DAVIS

⁴Those in Austria, Belgium, Czechoslovakia, Germany, Great Britain, Hungary, Italy, Japan, Poland, Spain, Switzerland, and Yugoslavia.

763.72119/10934a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, *January 28, 1921—6 p.m.*

62. If you can informally arrange to be given copies of minutes of meetings of Conference of Ambassadors it would be of great value to the Department to continue to receive them. Telegraphic summaries are unnecessary except of discussions important to the United States.

COLBY

462.00 R 29/420 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, *February 10, 1921—5 p.m.*

77. B-197, [for Boyden] from Davis.

1. Realizing the force of the views expressed in your B-356,⁵ I have delayed a reply until the question could be considered in every aspect and President consulted.

2. It was not deemed advisable for you to attend the Brussels meeting in view of the fact that we have not, by ratification, become a party to the Treaty and it is difficult to justify active participation in its application or revision when we are not a party to its main text. Furthermore the role of informal helper and unofficial participant in the discussion is very difficult to maintain. It is impossible that your words and even your silence would not be considered as in some degree reflecting the attitude of this Government, which it would be difficult to do authoritatively as its official mind not being made up is therefore incapable of expression or interpretation.

3. Referring to your comments on the results of the last election you doubtless recall that an attempt was made in 1919 to obtain the consent of the Senate Foreign Relations Committee to our being represented on the Reparations Commission. Congress evinced no interest then, nor has it subsequently, in our being represented on the Commission despite the important and tangible advantages which your presence there has afforded to American interests. Our withdrawal from the Council of Ambassadors was received without dissent and caused no comment whatever. Some of the Senate leaders have informed me that the first step under the new administration will be to conclude a separate peace with Germany. This would automatically eliminate this country as a party to the program of reparations provided for under the Treaty of Versailles and would also automatically eliminate you from the Commission. The President was definitely opposed to your going to Brussels and thought

⁵ See telegram no. 2026, Dec. 18, 1920, from the Ambassador in France, p. 2.

we should cease to participate in the work of the Commission. He has, in deference to my views, up to the present time acquiesced in your temporarily continuing to take part in the Commission's work. I believe, however, that the President does not feel that any advantage is to be expected from your further participation in the Commission's activities.

4. For your information I may say that we are not uninfluenced by the apparent fact that in all questions where we are accorded a voice the Allies show an increasing tendency to ignore our views, as for instance in regard to the ex-German cables, mandates, etc., and only consult our views in cases where they look to us for assistance.

5. At present our interests seem to be confined practically to the cost of maintaining the Army of Occupation, shipping questions, dye-stuffs and losses suffered by American citizens during the war. If you feel that any particular action should be taken before withdrawal you are requested to telegraph your views at once.

6. In withdrawing present to the Commission the following notification: "I am instructed by my Government to announce my retirement as its unofficial representative on the Reparations Commission. This step is taken in view of the refusal of the Senate of the United States thus far to ratify the Treaty of Versailles, and the feeling on the part of my Government that its position is inconsistent, in participating even informally in the discussion and decision of the various questions coming before the Commission, whose action thereon is taken by virtue of the provisions of said Treaty. I take this opportunity to express, on behalf of myself and of my Government, appreciation of the courteous attention which the Commission and its members have at all times extended to the United States and its unofficial representatives."

COLBY

462.00 R 29/420 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 11, 1921—1 p.m.

80. For Boyden from Davis.

Refer my B-197 February 10.

In lieu of paragraph 6 deliver following notification:

"I am instructed by my Government to announce my retirement as its unofficial representative on the Reparation Commission. This step is taken owing to circumstances which have made it impossible for my Government directly to cooperate with the Allied powers in preparing the plan of reparations recently agreed to by the Allied premiers. My Government is fully alive to the great difficulties

involved in this problem and recognizes the necessity and advisability of unified action in dealing with this perplexing problem, but as it is not in a position at this moment adequately to define its views on the question it feels that it would not be justified in continuing its representation on the Reparation Commission, which it understands will be charged with the execution of the plan to which this Government has not adhered. My Government therefore regrets that it is unable to continue direct cooperation in the functions of the Commission, but desires to express its sincere appreciation for all courtesies which the Commission and its members have shown the United States and its unofficial representatives."

COLBY

462.00 R 29/488 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, February 12, 1921—6 p.m.

[Received February 13—4:30 a.m.]

104. Your 77, February 10th, 5 p.m. and 80, February 11th, 1 p.m.
For Davis from Boyden:

Your B-197 and subsequent telegram.

1. Your last draft for statement to Commission implies that representation would have been continued if Paris arrangement about indemnity had not been made. Presume you do not mean to give such impression but language is unfortunate in this respect.

2. You can not utilize Paris indemnity decisions as basis for withdrawal without making wrong impression both upon Germany and upon Allies. Germany will proclaim it as complete condemnation Allied policy. Allies will themselves share this feeling. Influenced by the French, opponents of any reasonable policy will take on renewed life and vigor. This result not likely to be avoided by using different language. It is inherent so I urge strongly giving up this thought altogether.

3. It should also be added that the argument is far fetched. Your only connection between Reparation Commission and Paris decisions is fact that Commission is to execute decisions. This in itself is no change in principle and the decisions will in fact decrease rather than add to Commission's responsibilities.

4. It seems safest to rely on growing anomaly of imposing the cause of non-ratification and to negative at once such affirmative deductions as I mention. I suggest following language of which I am not proud, its virtues being chiefly negative.

"I am instructed by my Government to announce my retirement as its unofficial representative upon the Reparation Commission. All representation upon this Reparation Commission was in the beginning unofficial in anticipation of the ratifications of the treaty. The other powers have ratified and their representation long ago became official. The United States has not ratified and as time has passed its unofficial representation on the Commission had gradually become anomalous. After long hesitation my Government has decided that even this unofficial representation ought not to be continued. It is important that this step should not lead to unfriendly interferences [*inferences?*] whether in relation to matters before the Commission or to matters outside the

Commission. For this reason my Government desires me to state positively that the step has no significance other than the simple one which I have mentioned. Follow with [garbled groups]."

5. I think of nothing necessary to do before withdrawal, of course withdrawal will leave State Department in the air but few days delay would do no good.

6. As regards publication I propose to issue statement to the press based on notification to the Commission after notification has been made. Upon receiving your reply will immediately advise you of day on which formal statement to Commission will be made. Would appreciate your withholding announcement to press until that date so that I might have time to warn my colleagues. Boyden.

Concur fully with Boyden's views regarding probable effect of notification contained in your number 80, February 11th, 1 p.m., on Germans and Allies and hope that Department will approve his suggestions.

WALLACE

462.00 R 29/488 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 15, 1921—10 p.m.

89. For Boyden from Davis:

Refer Embassy's 104, February 12th, 6 p.m.

It was not intended to imply that our representation would have been continued if Paris arrangement about indemnity had not been made. Realizing that our withdrawal might be misconstrued by Germany and create wrong impression upon Allies the proposed statement was intended to prevent this as much as possible by stating as clearly as possible the reasons for our action. Our principal reason for withdrawing has been a growing realization of the anomalous position in which we are being placed by not having ratified the Treaty; the fact that we did not feel justified in being represented at a meeting of the Supreme Council to consider a settlement of the reparations question, which involves changes in a treaty which we have not ratified; and that while we are not in a position to approve or disapprove any such arrangements, we are not willing to renounce our inherent rights, or admit that our failure to ratify the Treaty has debarred us from a voice in the determination of such an important matter which concerns us. While it is true that our only connection between Reparation Commission and Paris decisions is that Commission would execute decisions, there is at least the difference that Commission is now supposed to execute terms of Treaty which we helped formulate, although we have not ratified it.

I am confident that reparations plan as modified at Paris meeting is entirely unworkable and in a way worse than the reparation obligations under the Treaty because at least under the Treaty unanimous consent is required for any action in case of Germany's inability to pay, and contingent alone upon Germany's wilful refusal to comply.

There is considerable sentiment here in favor of our filing a caveat against the Paris plan. This we have not considered necessary or advisable but we do not wish to approve the plan or indirectly commit ourselves to it. While no plan can be effective without American approval, unfortunately circumstances here at present would prevent our definite approval of a plan which we might consider thoroughly sound. We will endeavor through our press to avoid the erroneous impression that we are taking sides with Germany, and to accentuate the necessity and desirability of unified action in dealing with this problem.

We concur in your recommendation regarding publication of statement of withdrawal and will await your advices.

After considering entire question we hope that following draft will meet your objections to former proposed draft and maintain position which we consider necessary. You may however make such alterations in following draft as you deem wise, having in view the position above outlined, which we consider it necessary to maintain. Bear in mind that we are not expressing an opinion as to the probable ratification of the Treaty, which this Administration still hopes will be done, but that if we never ratify the Treaty we have inherent rights which we must not renounce.

"I am instructed by my Government to announce my retirement as its unofficial representative upon the Reparation Commission. All representation upon this Commission was in the beginning unofficial in anticipation of the ratification of the Treaty. The other powers have ratified and their representation long ago became official. The United States has not ratified and as time has passed its unofficial representation on the Commission has gradually become anomalous. My Government, not having ratified the Versailles Treaty, was unable directly to cooperate with the Allied Powers in the preparation of plans which would involve a change in that Treaty. It realizes fully the great difficulties involved in the problem and recognizes the value of unified action, but as it does not under present circumstances feel able to share in such discussions, and to define its views, it can only feel the impropriety of retaining even an unofficial representative on a Commission charged with the execution of a plan, in the drawing up of which it did not participate. After long hesitation my Government has decided that even this unofficial representation ought not to be continued. (Follow with expression of appreciation of courtesies extended)."

COLBY

462.00 R 29/492 : Telegram

*The Ambassador in France (Wallace) to the Secretary of State*PARIS, *February 18, 1921—10 a.m.*

[Received 2:05 p.m.]

117. B-415. For Davis. Am instructing Smith withdraw from Austrian Section contemporaneously our withdrawal Paris, Saturday morning. Following form:

"I am instructed by my Government to announce the retirement of its unofficial representatives upon the Reparation Commission. This decision has been reached only after long hesitation and careful consideration.

All representation upon the Commission was in the beginning unofficial in anticipation of ratification of the Treaty of Versailles by the signatory parties. Other powers have ratified and their representations long ago became official. The United States has not ratified and as time has passed its unofficial representation on the Commission has gradually become anomalous.

My Government under the foregoing conditions has felt unable to cooperate with the Allied Powers at Brussels and elsewhere in the preparation of plans which seem to involve a change in the treaty. It realizes fully the great difficulty of these problems and recognizes the value of unified action, but as it cannot at present take part in such discussions or even express any views upon the subjects discussed it feels that it is undesirable to retain even unofficial representation on the Commission likely to be charged with the execution of such plans.

My Government instructs me further to express its sincere appreciation of the many courtesies which the Commission and its members have shown the United States and its unofficial representatives."

Boyden
WALLACE

462.00 R 29/499a : Telegram

*The Secretary of State to the Ambassador in France (Wallace)*WASHINGTON, *February 19, 1921—9 p.m.*

102. B-210. For Boyden from Davis.

Your opinion is desired as to whether it would be advisable to assign Logan,⁷ or some other member of the American Unofficial Delegation, to the Embassy at Paris. Such person could keep in touch with the Commission and handle American interests now pending before the Commission and questions which might arise in the future. Your opinion is also desired as to whether Repara-

⁷ Col. James A. Logan, Jr.

tion Commission files should be transferred to Embassy or brought to Washington.

Department desires to be informed regarding date of your sailing and assumes you will come to Washington for conference.

COLBY

462.00 R 29/500 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, February 23, 1921—4 p.m.

[Received 5:57 p.m.]

136. B-421 for Davis.

Your B-210 paragraph 2d. This plan obviously most desirable. No one could carry it out as effectively as Logan. Easy to see certain definite matters which need such close attention and there will be others, also his relations with members of the Commission such they would be glad to give him any legitimate information of general nature.

2d. Files ought to be kept here until United States final policy determined. If then we are not represented on Commission, should be weeded out most drastically. Only small residuum of any value except for active organization here. You have records. Commission annexes legal opinions which comprise about everything likely to be useful in Washington. Shall try in closing up here put files in shape for carrying out foregoing policy.

3d. Ought take 3 or 4 weeks clean up pending matters, arrange new relations with Commission, get finances in shape, arrange about building, also dissolution organization. My plan is then take some trip here in France afterwards spend short time in England. Should naturally go to Washington at once when I return but [in] my judgment can give more useful assistance by remaining on this side if any one wants my assistance. Any assistance in my power will always be rendered gladly. Would even give up foregoing plans if necessary but do not believe it necessary and do not want to be called back unless strong reason to believe I can make more useful contribution there than here. Boyden.

WALLACE

462.00 R 29/500 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, March 9, 1921—4 p.m.

136. Following for Boyden.

Your telegram B-421. It is desired that you remain in Paris pending an opportunity for consideration of what steps, if any,

should be taken in interest of this Government respecting activities of Reparation Commission. Meanwhile, without in any way committing this Government, you may unofficially obtain and report any information of interest to this Government. Department would appreciate your suggestions as to how above may best be accomplished.

HUGHES

611.626/317 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Extract—Paraphrase]

WASHINGTON, *March 11, 1921—5 p.m.*

144. B-215 for Boyden.

3. Pending decision of Department as to its attitude toward the Reparation Commission, you are requested to maintain your staff and organization intact so far as possible. You should give no publicity to the fact that you are retaining staff. Present action does not indicate in any way whatever the possible attitude of Department toward the Commission or the reparation settlement.

HUGHES

462.00 R 29/530 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, *March 14, 1921—5 p.m.*

149. To Wallace and for Boyden's information.

Reference to B-421, February 23.

Logan has received War Department orders to present self to military attaché to serve between Reparation Commission and Embassy as liaison officer.

The decision mentioned in our B-215, paragraph 3, which was made before we requested this appointment, is to be considered as still valid.

HUGHES

763.72119/11129

*The President of the Allied Conference (Lloyd George) to the Government of the United States*⁸

As President of the Allied Conference which is just completing its sittings in London, I am authorised with the unanimous concur-

⁸ Left at the Department by the British Ambassador, May 6, 1921.

rence of all the Powers here represented to express to the United States Government our feeling that the settlement of the international difficulties in which the world is still involved would be materially assisted by the co-operation of the United States; and I am therefore to enquire whether that Government is disposed to be represented in the future, as it was at an earlier date, at Allied Conferences, wherever they may meet, at the Ambassadors' Conference, which sits at Paris, and on the Reparations Commission.

We are united in feeling that American cognizance of our proceedings and, where possible, American participation in them, will be best facilitated by this.

763.72119/11129

The Government of the United States to the President of the Allied Conference (Lloyd George)

The Government of the United States has received through the British Ambassador the courteous communication in which you state that, with the unanimous concurrence of the powers represented at the Allied Conference in London, you are to inquire whether this Government is disposed to be represented in the future, as it was in the past, at Allied Conferences, at the Conference of Ambassadors in Paris, and on the Reparation Commission.

The Government of the United States, while maintaining the traditional policy of abstention from participation in matters of distinctly European concern, is deeply interested in the proper economic adjustments and in the just settlement of the matters of world wide importance which are under discussion in these conferences, and desires helpfully to cooperate in the deliberations upon these questions.

Mr. George Harvey, appointed Ambassador to Great Britain, will be instructed on his arrival in England to take part as the representative of the President of the United States, in the deliberations of the Supreme Council. The American Ambassador to France will be instructed to resume his place as unofficial observer on the Conference of Ambassadors, and Mr. Roland W. Boyden will be instructed to sit again in an unofficial capacity on the Reparation Commission.

The Government of the United States notes with pleasure your expression of the belief of the representatives of the Allied Governments assembled in London, that American cooperation in the settlement of the great international questions growing out of the world war will be of material assistance.

WASHINGTON, May 6, 1921.

462.00 R 29/729 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 7, 1921—noon.

241. For Boyden. You should immediately inform the Chairman of the Reparation Commission that you have been instructed by your Government, in response to the request made by the Supreme Council, to resume your unofficial position on the Commission. You should, as formerly, keep the Department informed by cable of the discussions and decisions of the Council with your comments thereon.

HUGHES

763.72119/11130a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 7, 1921—2 p.m.

243. You should immediately inform the President of the Conference of Ambassadors that you are prepared, in accord with the instructions of your Government, to resume your place as unofficial American observer on the Conference of Ambassadors. You will be expected, as in the past, to make reservations for reference to the Department on decisions affecting the interests of the United States, and to cable concise summaries of the Council meetings in so far as they may touch questions in which the United States is interested.

HUGHES

763.72119/11135a : Telegram

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

[Paraphrase]

WASHINGTON, May 11, 1921—noon.

274. You have been designated as the President's representative to participate in Supreme Council's deliberations. The general principles as to participation of the United States were set forth in paragraph two of this Government's communication to Mr. Lloyd George accepting invitation of the Allies. These should be your guide. Whenever it is difficult to separate matters of "distinctly European concern" from matters of "world-wide importance" and therefore of great interest to the United States, your doubt should be solved by nonparticipation. The principles set forth in recent notes addressed to Allied Governments having a special relation to the

island of Yap⁹ should in general be maintained in regard to rights and property accruing to Allied and Associated Powers as a result of the war. It is to be understood that we advance these principles not to secure territory or disturb arrangements which do not prejudice the interests of the United States, but to guarantee equality of participation whenever it may happen that we have interests to conserve. This Government is interested in economic questions growing out of the war. These may relate either to our trade directly or to economic adjustments underlying the recuperation of Europe and therefore affect the prosperity of the United States. The influence of this Government should be exerted through you (1) toward effecting economic settlements which will as far as possible promote restoration of normal activities and will encourage the utmost national endeavor without providing escape from just obligations; (2) toward effective recognition of open-door policy of equal commercial opportunity. Conversely, the United States maintains its traditional policy in political matters of purely European concern, and must not become involved.

While participating in Supreme Council's deliberations and exerting your influence within the above-defined limits, you are not to commit the Government of the United States to any action on its part. Inform the Department closely on all questions discussed in Supreme Council and request instructions upon particular points.

After your letter of credence is presented, the President of the Allied Conference should be informed that you are ready to participate in Supreme Council's deliberations as the President's representative.

If Germany agrees to reparation demands, we do not think there will be frequent occasion for meetings of Supreme Council.

HUGHES

763.72119/11139 : Telegram

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

[Extract—Paraphrase]

LONDON, May 16, 1921—2 p.m.

[Received 2:58 p.m.]

407. It is probable Supreme Council will not meet until next week and that first matter for discussion will be Silesia. Without doubt the rule of nonparticipation will govern this matter. It is probable

⁹ See telegram no. 107, Feb. 21, 1921, to the Ambassador in France, p. 89; also telegram no. 61, Apr. 2, 1921, to the Chargé in Japan, vol. II, p. 279.

the President of the Council will invite and even urge me to attend merely as observer while Silesia is discussed in order to inform Department promptly and accurately. I assume you would approve my attending upon that basis. Is this correct? . . .

HARVEY

763.72119/11139 : Telegram

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

[Paraphrase]

WASHINGTON, May 18, 1921—5 p.m.

288. Your telegrams 407 and 409.¹⁰

In order to inform Department promptly and accurately you may attend deliberations of Supreme Council. In boundary questions that are merely of European significance the Department does not wish to involve itself. But recognizing the serious and world-wide consequences that may follow this controversy, we earnestly hope for a peaceful solution and a cessation of the present disorders. You may be able, without undertaking for this Government any action violative of its traditional policy, to contribute through your presence to a settlement, although acting informally as an observer.

HUGHES

763.72119/11352a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, July 27, 1921—3 p.m.

360. In restoring on May 11 unofficial representation on Reparation Commission and Conference of Ambassadors and in appointing Ambassador Harvey the President's representative on Supreme Council, this Government made clear its position, in paragraph two of statement to Lloyd George.¹¹ See Department's 239, repeated from London.¹² The Ambassador was instructed not to participate in case of doubt as to whether question was of "distinctly European concern," or of "world-wide importance" and consequently of interest to this Government. He was instructed that without committing the United States to any action, he should use his influence toward effec-

¹⁰ Latter not printed.

¹¹ *Anie*, p. 13.

¹² Not printed.

tive recognition of open-door policy, and toward effecting economic settlements for promoting the restoration of normal activities.

For instructions to Ambassador Wallace, as observer on the Conference of Ambassadors, see Department's 9279 of December 18 [8], 1919,¹³ and 243 of May 7, 1921.

You should refrain from expression of opinion or comment on all questions not involving this Government directly, and should request instructions before you take any action which would commit the United States.

HUGHES

763.72119/11369a : Telegram

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

[Paraphrase]

WASHINGTON, August 2, 1921—4 p.m.

437. Press reports indicate that there will soon be a meeting of the Supreme Council. The Department, in reminding you of its instructions of May 18, wishes to emphasize that it does not desire to become involved in Silesian dispute, and trusts that you will avoid any official or personal expression which could be taken as an indication of support of either side, following in this respect the impartial line of conduct you have taken hitherto. As observer, keep Department accurately and promptly informed of questions discussed. Department would like to receive, as soon as possible, information as to the matters which will be on the agenda of next meeting.

HUGHES

763.72119/11375 : Telegram

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

LONDON, August 4, 1921—5 p.m.

[Received 5:25 p.m.]

644. Your 437, August 2, 4 p.m. I have just received through French Ambassador, London, and our Embassy, Paris, official invitation to Supreme Council which will meet in Paris Monday August

¹³ *Foreign Relations*, 1919, vol. I, p. 28.

8th, during the session of which myself and staff are to be guests of the French Government. I have accepted through same channels and will leave London Saturday morning accompanied by Wright,¹⁴ Lane¹⁵ and two stenographers. I am so informing Embassy at Paris and also General Allen¹⁶ and would appreciate if latter might be instructed to join me in Paris by Sunday at the latest.

I suggest that henceforth all telegrams relative to Supreme Council or those intended for my personal guidance be addressed through Embassy Paris.

HARVEY

PRELIMINARY ARRANGEMENTS FOR THE WASHINGTON CONFERENCE ON THE LIMITATION OF ARMAMENT

Informal American Proposal for a Conference on the Limitation of Armament, July 8, 1921—Acceptance of the British Proposal to Extend the Discussions to Pacific and Far Eastern Questions—Refusal of a British Suggestion for a Preliminary Conference—Discussions of Agenda—American Invitation to Great Britain, France, Italy, and Japan, August 11—Invitation to China on August 11, and to Belgium, Portugal, and the Netherlands on October 4, to Participate in the Discussion of Pacific and Far Eastern Questions

500.A4/a : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Harvey)*¹⁷

[Paraphrase]

WASHINGTON, July 8, 1921—4 p.m.

384. Ascertain informally whether it would be agreeable to the British Government to be invited by this Government to participate in a conference on limitation of armament, the conference to be held in Washington at a mutually convenient time. Similar suggestions will be made to the French, Italian, and Japanese Governments. Until invitation is issued it is desired that the matter shall be held in confidence.

For your information only: It is probable that formal invitation will not be sent until after Congress passes the naval bill with Borah Resolution.¹⁸

HUGHES

¹⁴ J. Butler Wright, counselor of the Embassy at London.

¹⁵ Arthur Bliss Lane, second secretary of the Embassy at London.

¹⁶ Maj. Gen. Henry T. Allen, American observer on the Rhineland High Commission.

¹⁷ The same, *mutatis mutandis*, to the diplomatic representatives in France (no. 330), Italy (no. 121), and Japan (no. 104). (File nos. 500.A4/b, c, d.)

¹⁸ See p. 27.

500.A4/1 : Telegram

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

[Paraphrase]

LONDON, *July 8, 1921—8 p.m.*

[Received 10:34 p.m.¹⁹]

568. Curzon ²⁰ orally requested me, late on the afternoon of July 5, to propose to my Government that the President invite powers directly concerned to take part in conference to be held to consider all essential matters bearing upon Far East and Pacific Ocean with a view to arriving at a common understanding designed to assure settlement by peaceful means, the elimination of naval warfare, consequent elimination of arms, etc. This was official by Cabinet's direction. In answer to my inquiry as to whether he regarded the question as pressing, requiring an immediate answer, or whether purposes would be served by my conveying message by mail, thus enabling me to present simultaneously a comprehensive survey of whole situation, he replied that the latter method seemed entirely satisfactory since the Japanese Ambassador had notified that several days at least would be required interpreting views from his Government upon same subject.

Yesterday, while I was engaged in preparing such survey for today's pouch, Curzon informed me that a new element had entered the situation which seemed to require attention immediately. This was that Lloyd George ²¹ had informed him that he could no longer withstand importunate inquiries in House of Commons regarding the alliance ²² and cognate subjects and felt that he must respond yesterday, July 7, to the effect that his Government had inquired of the United States, Japan, and China and was waiting for an expression of their views. Curzon informed me that he had demurred to this program if it involved anything definite until I had an opportunity to communicate his official proposal to Washington. In view of Curzon's statement to me that the matter was not imminent the Prime Minister consented to make a general statement last evening, coupled however with a virtual pledge that on Monday ²³ he would speak more specifically. In pursuance of this correspondence he replied as follows to a series of questions in the House of Commons last night.

¹⁹ Telegram in two sections.

²⁰ Earl Curzon of Kedleston, British Secretary of State for Foreign Affairs.

²¹ David Lloyd George, British Prime Minister and First Lord of the Treasury.

²² For papers on the renewal of the Anglo-Japanese alliance, see vol. II, pp. 313 ff.

²³ July 11.

"I hope soon to be in a position to make a statement on this important subject. I am very hopeful of being able to do so on Monday. It depends upon the replies received from the United States of America, Japan and China. A premature declaration would interfere with the success of the negotiations now proceeding. Pressed by several members for information concerning various points the right honorable gentleman added that he thought that it would be found that his statement would be of a comprehensive character. He certainly would not suggest that the House should not discuss the subject if the House really desired to do so after having heard his statement but he thought the request for an opportunity of discussion should be made after the House had heard what action the Government proposed to take."²⁴

In view of this situation Curzon asked that I immediately communicate his proposal to my Government and make every effort to obtain a reply not later than Monday morning in order to enable the Prime Minister to incorporate it in his formal statement to House of Commons. I am now complying with Curzon's request.

Feeling here is daily becoming stronger against renewal of Anglo-Japanese alliance. Curzon unhesitatingly stated that any such special arrangement would necessarily be extinguished by an understanding such as contemplated. . . .

. . . It is true that the Prime Minister is being pressed for reply but I suppose he is not averse to acquiring credit for initiating a movement which may prove to be the most far-reaching and effective ever known for world peace. It is clear that if you reply favorably to proposal of British Government and the Prime Minister so announces in Parliament he will achieve that distinction whether purposely or not. The President would then be in a position, which I consider harmful and distasteful, of acting at the instigation of Lloyd George, thereby depriving himself of his rightful credit and antagonizing all anti-British elements in United States. For your and the President's consideration I suggest that this be forestalled by the President issuing statement for publication Sunday, if possible, but if not then on Monday morning, to this effect: Having ourselves conceived as a result of inquiries that nations vitally or intimately concerned in questions relating to Pacific Ocean and Far East would favorably respond to invitations to meet in conference to try to effect an understanding which would tend to insure peaceful relations through safeguarding equitably and fairly the interests of all and thus make possible suitable limitation of armaments, the President has decided to issue such invitations as soon as time, place and other necessary preliminaries could be arranged. Then the

²⁴ Quoted statement not paraphrased.

Prime Minister's reply on Monday would necessarily consist of the initiatory statement of the President and an expression of the British Government's acquiescence as it should be.

I may say that Curzon, after several interviews with Japanese Ambassador, informed me that he felt sure Japan would readily acquiesce. The Chinese Minister, who has just left me, said that although he had not received definite word from his Government, I might safely take it for granted that they would gladly take part in any conference proposed by the President. If it is decided to continue with the matter, who else should be included is a very ticklish question which would require most careful consideration from all points of view and this also applies to time and place. Curzon assures me that his Government would accept any suggestions the United States might make upon all such questions which would later arise and he believes he could induce Japan to do likewise.

If it is decided to issue such a statement as I have suggested please see that I get it at the earliest time to insure its appearance in the Monday morning papers here. It would be desirable for me to have whatever answer is made to Curzon's official request at the earliest moment, as on Monday morning I am under summons to meet with him and Lloyd George. I had hoped to present to you many matters of collateral interest in the general survey I had in mind but I think I have included all of immediate importance. I have arranged with the Commercial Cable Company to keep the wires absolutely cleared for our possible use in case any questions occur to you as to phases I may have overlooked. There should, therefore, be time for queries and answers to pass.

HARVEY

500.A4/451a

The Secretary of State to President Harding

WASHINGTON, July 9, 1921.

MY DEAR MR. PRESIDENT: I cabled yesterday directing informal inquiries to be made in London, Paris, Rome and Tokio to ascertain whether it would be agreeable to the respective governments "to be invited by this Government to participate in a conference on limitation of armament, the conference to be held in Washington at a mutually convenient time."²⁵ To each government it was stated that those expected to participate were the United States, Great Britain, France, Italy and Japan, and the desire was expressed that the matter should be held in confidence until the invitation was issued.

²⁵ Quoted passage paraphrased.

You will have observed that I referred to "the limitation of armament," without limiting the description to naval armament. My thought was that if it was desired later to make such a limitation it could readily be accomplished, but that we had interests . . . which might make it desirable to include other armament than that which is distinctively naval. If, however, for any reason you desire that I should limit the suggestion to a conference with respect to naval armament, will you kindly let me know and I can readily modify the suggestion?

The French Ambassador is coming in at eleven o'clock this morning. Could you arrange to have Mr. Christian²⁶ telephone me in case you wish any modification?

Faithfully yours,

CHARLES E. HUGHES

500.A4/2: Telegram

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

LONDON, July 9, 1921—11 a.m.

[Received July 9—11 a.m.]

569. Following official statement appears in morning newspapers.

"With reference to the Prime Minister's observations in the House of Commons, on Thursday, on the Anglo-Japanese Treaty it was stated yesterday at the Foreign Office in answer to an inquiry that strictly no 'reply' is expected from the United States as there is nothing to which to reply.

Our whole attitude with regard to a conference amounts to this—that the idea of a conference has been canvassed in America during these last three or four months; ever since President Harding came into office. We have repeatedly informed the United States, both publicly and confidentially, that we should welcome a conference and we understand that the other countries concerned are of the same mind.

Everything therefore depends on whether the United States Government will formally propose that a conference shall be held. The word 'reply' must be understood in the sense that a formal invitation on the part of the American Government to such a conference would be replying to the welcome given on all sides in this country to the idea ever since it was first unofficially put forward in America."

The official report of Parliament proceedings omits qualifying clause in Lloyd George's Thursday statement to the effect that his statement promised for Monday would depend "upon the replies re-

²⁶ George B. Christian, Jr., secretary to President Harding.

ceived from the United States, Japan and China." This clause consequently, says *Times* editorially, "may be regarded as officially nonexistent."

HARVEY

500.A4/1 : Telegram

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

[Paraphrase]

WASHINGTON, July 9, 1921—6 p.m.

387. Mystifying press reports recently received from London are explained by your 568 of July 8 and 569 of July 9. Of course our 384 of July 8, directing informal inquiry as to British Government's attitude respecting a conference on limitation of armament, must stand, as similar inquiries have already been sent to Paris, Rome, and Tokio. However, this fact may help in maintaining the President's initiative which is important. Limitation of armament question is vital here and is not confined to the Pacific. It was considered best that the group heretofore known as the five Principal Allied and Associated Powers should first be approached on this subject. If they consider it advisable an invitation can later be extended to others or program can be formulated and submitted to others as seems best. The problem of limitation of armament, however, does relate to Pacific and Far Eastern questions and all the five powers except perhaps Italy have an interest in the latter. In view of your message, it would seem appropriate for this Government to send a supplemental cable to the other powers to the effect that the proposed conference on limitation of armament would be extended to include discussion of all Far Eastern problems by powers interested and that China would be asked to take part in that discussion. The conference should be held in Washington at a time to be later agreed upon. Ascertain and cable immediately if this is agreeable to the British Government. If so, will send cables enlarging suggestion regarding conference as above, and also to China regarding participation in Far Eastern discussion, and the President will announce in Monday morning papers²⁷ that on his own initiative he has asked powers whether they would welcome such an invitation and that as soon as details have been arranged formal invitations accordingly will be sent. Will cable copy of President's statement for release Monday morning in London papers.

HUGHES

²⁷ July 11.

500.A4/4a : Telegram

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

WASHINGTON, July 9, 1921—7 p.m.

388. The following is statement proposed to be made by President Harding for publication Monday morning, provided you advise Department that proposal is satisfactory to British Government.

“The President, in view of the far-reaching importance of the question of limitation of armament, has approached with informal but definite inquiries the group of Powers heretofore known as the Principal Allied and Associated Powers, that is, Great Britain, France, Italy and Japan, to ascertain whether it would be agreeable to them to take part in a conference on this subject, to be held in Washington at a time to be mutually agreed upon. If the proposal is found to be acceptable, formal invitations for such a conference will be issued.

It is manifest that the question of limitation of armament has a close relation to Pacific and Far Eastern problems, and the President has suggested that the Powers especially interested in these problems should undertake in connection with this conference the consideration of all matters bearing upon their solution with a view to reaching a common understanding with respect to principles and policies in the Far East. This has been communicated to the Powers concerned and China has also been invited to take part in the discussion relating to Far Eastern problems.”

To avoid any misunderstanding you should wire approval of statement or indicate changes desired at earliest moment. If any changes are necessary, do not publish until you receive authority from the Department. As President is cruising and can be reached only by radio, greatest expedition in cabling necessary and changes not vital should not be suggested.

HUGHES

500.A4/4c : Telegram

The Secretary of State to the Chargé in Japan (Bell) ²⁸

WASHINGTON, July 10, 1921—6 p.m.

107. Supplementing our 104, July 8th, 4 p.m.²⁹ Inform Japanese Government that it is the view of this Government that the question of limitation of armament has relation to Pacific and Far Eastern problems and therefore it would seem appropriate that proposed conference should also embrace discussion by interested Powers of all Far Eastern questions and that China should be invited to

²⁸ The same, *mutatis mutandis*, to the diplomatic representatives in France (no. 333) and Italy (no. 122). (File nos. 500.A4/4d, 4b.)

²⁹ See footnote 17, p. 18.

participate in that discussion. Also state that our suggestion that inquiry be held confidential is withdrawn and that President will make announcement on Monday morning July 11th that he has directed these inquiries to be made and that this Government will issue invitation for conference in due course if proposal acceptable.

HUGHES

500.A4/8a : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 10, 1921—6 p.m.

191. Inform Chinese Government that this Government has made inquiry of Great Britain, France, Italy and Japan whether it would be agreeable to them to take part in a conference on the limitation of armament, the conference to be held in Washington at a time mutually convenient. This question manifestly has a close relation to Pacific and Far Eastern problems and it is suggested that the Powers especially interested in these problems, including China, should undertake in connection with the conference the consideration of all matters bearing upon their solution with a view to reaching a common understanding with respect to principles and policies in the Far East. Ascertain by informal inquiry whether it would be agreeable to China to take part in the discussion relating to Far Eastern problems.

HUGHES

500.A4/3 : Telegram

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

LONDON, July 10, 1921—9 p.m.

[Received July 10—5:18 p.m.]

573. Your July 9, 7 p.m. Prime Minister says statement is admirable. He wholly approves and I am giving out statement to newspapers here tonight for publication tomorrow morning. I assume you are doing the same thing.

HARVEY

500.A4/10 : Telegram

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

LONDON, July 11, 1921—11 p.m.

[Received July 12—7:43 a.m.]

579. The President's announcement received universal acclaim in the press this morning. The *Times* was the only paper which had it early enough by certain prearrangement for editorial comment and its leader is splendidly appreciative of the President taking the

initiative so opportunely and strongly. Curzon sent for me this morning to inquire whether I could suggest anything which he might put before the Imperial Conference at noon which met to consider what Lloyd George should say. I could only reply that would seem advisable to confine his remarks to general approval without raising question at the moment of details as to time, place, et cetera, which would start immediate public discussion. He acquiesced in this view and spoke accordingly to the conference.

Curzon sent for me again this afternoon and I have just returned. He requested me to ask my Government whether it might not seem desirable to seek an early conference with respect to settlement of Pacific and Far Eastern problems as an essential preliminary to the second conference designed to limit armaments. If so, certain practical considerations needed to be taken into account. Prime Ministers Hughes³⁰ and Massey³¹ for example were obliged to return to their countries to arrive for the meeting of their Parliaments early in October. Six weeks would be required for this journey from here and no less for their return at some later date to Washington or any other feasible place after their sessions some time in the early part of next year. Consequently they were desirous that the conference should take place not later than August 15th. Furthermore, Curzon added it would be virtually impossible to hold the conference anywhere else than here or in this vicinity for the reason that both the Prime Minister and himself who would be the natural delegates are and will continue to be for some time overwhelmed by responsibilities of an imminent nature such as the Irish settlement, the Sidra [*sic*] difficulty, the trouble between Greece and Turkey and many other matters likely to arise at the Supreme Council which is expected to be convened about July 23rd.

The disarmament [conference] could follow in the ordinary course at Washington as proposed by the President at a time when presumably the Prime Minister and himself would be able to attend.

Such procedure had been very earnestly [urged?] at the Imperial Conference by the visiting Prime Ministers and his assertion is borne out by the fact that Prime Ministers Hughes and Massey last evening at Chequers implored me to ask my Government to so arrange the program that they would not be prevented from attending especially as their interests were in all essential respects wholly identical with ours.

This conversation was wholly informal and confidential, of course, but Curzon particularly requested me to obtain from my Government

³⁰ W. M. Hughes, Australian Prime Minister and Attorney General.

³¹ W. F. Massey, New Zealand Prime Minister, Minister of Finance, etc.

an expression upon his suggestion as soon as was reasonably convenient for the information of the visiting Premiers who I suspect are becoming somewhat impatient.

Curzon of course was in no sense insistent upon the adoption of his suggestion but he did wish me to transmit immediately the exact status of affairs from a practical standpoint without delay.

HARVEY

*Extract from the Act Making Appropriations for the Naval Service for the Fiscal Year Ending June 30, 1922, and for Other Purposes*³²

SEC. 9. That the President is authorized and requested to invite the Governments of Great Britain and Japan to send representatives to a conference, which shall be charged with the duty of promptly entering into an understanding or agreement by which the naval expenditures and building programs of each of said Governments, to wit, the United States, Great Britain, and Japan, shall be substantially reduced annually during the next five years to such an extent and upon such terms as may be agreed upon, which understanding or agreement is to be reported to the respective Governments for approval.

Approved, July 12, 1921.

500.A4/11 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, July 12, 1921—11 a.m.

[Received 12:02 p.m.]

439a. My 438 [439], July 11, noon.³³ French Government will be very happy to receive an invitation to proposed conference.

WHITEHOUSE

500.A4/13 : Telegram

The Chargé in Italy (Gunther) to the Secretary of State

ROME, July 12, 1921—6 p.m.

[Received July 13—9:11 a.m.]

179. My 176, July 12th, 1 p.m.³³ The new *Chef de Cabinet*, Brambilla, has just telephoned me that the Minister for Foreign Affairs

³² 42 Stat. 122-141.

³³ Not printed.

has seen the Prime Minister who also heartily concurs in approval of your plan and the Italian Government will therefore be very happy to receive your invitation to the conference.

GUNTHER

500.A4/10 : Telegram

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

[Paraphrase]

WASHINGTON, July 13, 1921—1 p.m.

394. Have carefully considered the suggestion in your 579 of July 11 to hold early conference on Far Eastern questions as an essential preliminary to the conference on limitation of armament. Although it is desired to promote convenience so far as practicable, it is considered impossible to have the conference as early as August 15. We could not make suitable arrangements and adequate preparation by that time even approximately and Japan and China could not be expected to have delegations present so early. Appreciate fully responsibilities of Prime Minister and Foreign Secretary and attitude of Dominion Premiers. However, the following are deemed controlling considerations.

There would undoubtedly be unpleasant reaction of American opinion and considerable feeling that limitation of armament had been sidetracked if it were now announced that conference on limitation of armament was to be postponed until disposition of Far Eastern questions by a preliminary conference. It would at once be asserted by those who are now unable to voice effective criticism that the entire plan had been arranged with this in view. Further, a conference in London would not be regarded favorably here, in the light of relations between Japan and Great Britain. The President's proposal was distinctly for a conference at Washington. As such it was specifically endorsed in Great Britain before announcement was made, and it has been accepted in Italy and France. Although it is entirely possible that matters relating to Pacific and Far Eastern problems should be first on conference agenda, still the conference would be concerned with all subjects within the call for such disposition as might be practicable. It would be quite a different matter to leave subject of limitation of armament to a second conference the holding of which might be entirely dependent upon success of first. Such chance should not be taken.

British Government cannot fail to realize that it is vitally important to satisfactory settlement of large issues involved and to success of conference that conference should be closely in touch with

American opinion and holding of conference in Washington, with sympathetic contacts thus made possible, is of first consequence. This view is not presented especially in interest of United States but because it is important in securing solutions helpful to all of the powers and to assure not only formulation of plans but their final execution. It is believed that it would be a serious mistake to hold the conference in London and nothing could be more conducive to a wholesome cooperation than the holding of the conference here. This is so strongly felt by the Administration that it regards as essential this feature of the plan.

Regarding the time of conference it is of course desired to consult the convenience of all participating powers, and it is not the intention of this Government to be unduly urgent. However, it is hoped that it will be possible to hold the conference at a reasonably early date and that the anticipations which have been raised will not be disappointed.

HUGHES

500.A4/15: Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 13, 1921—5 p.m.

[Received July 13—3:06 p.m.]

259. Showed Yen ³⁴ your telegram number 191, July 10, 6 p.m., which he had received in substance from Sze ³⁵ and apparently interpreted as an invitation to join the conference on armaments as well as Far Eastern problems although the Department's message would seem to show that China is to join in discussions only in connection with Far Eastern problems. In the absence of further instructions I did not venture to discuss this point. Yen expressed China's gratitude for invitation to join conference. China will be pleased to participate in conference either on armaments or on Pacific problems. Yen is not clear however as to the relations between the two matters as they have come up. He understands that the British Imperial Conference having failed to reach accord on the Anglo-Japanese alliance the British Government suggested to the American Government to call a conference on Far Eastern and Pacific problems to be held not [*sic*] in London. Instead of which the American Government has called a conference at Washington on the reduction of armaments to which discussion of Pacific and Far East is seemingly ancillary only. Yen asks elucidation.

RUDDOCK

³⁴ W. W. Yen, Chinese Minister of Foreign Affairs.

³⁵ Sao-Ke Alfred Sze, Chinese Minister at Washington.

500.A4/17b : Telegram

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

WASHINGTON, July 13, 1921—6 p.m.

398. Have received from France, Italy and China direct responses that they will be glad to receive invitation to conference. In case of Great Britain have only your 573, July 10, 9 p.m. that Prime Minister "says statement is admirable; he wholly approves." This, of course, quite sufficient but would like direct expression of approval of invitation similar to that received from other Powers which would be available for publication if desired.

HUGHES

500.A4/17 : Telegram

The Ambassador in Belgium (Whitlock) to the Secretary of State

BRUSSELS, July 13, 1921—6 p.m.

[Received July 15—9 a.m.]

25. Mr. Jaspar, the Minister for Foreign Affairs, sent for me this afternoon and I found him deeply concerned because Belgium had not been invited to the conference called by the President. In a lengthy conversation he said that while pretending to no rights in the Pacific the question of terrestrial disarmament is a vital one for Belgium; after having been ignored at the Peace Conference Belgium would not like to have it said that through America she had lost the prestige gained after her admission to the Supreme Council. He felt that Belgium could exercise influence on her Allies especially in the matter of disarmament as she had done at Paris and London where by opposing the occupation of the Ruhr she had preserved the peace of Europe.

Mr. Jaspar asked me to present for your consideration these and other points which I shall elaborate in a despatch.³⁶ For my part I can only add that the *amour propre* of the Belgians seems to be considerably engaged in this matter and that it will be felt as a slight if the country is not asked to assist at the conference.

Mr. Jaspar has asked the British and French Governments to intervene with you in Belgium's behalf. He does not think England will do so but says France will. There is no doubt that Belgium exercised considerable influence at Paris.

WHITLOCK

³⁶ Despatch not printed.

500.A4/14 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

Tokyo, July 13, 1921—7 p.m.

[Received July 13—3:13 p.m.]

245. My 240, July 11th, 6 p.m.³⁷ I have just received following memorandum from the Foreign Office.

“The Imperial Government are happy to state that it would be agreeable to them to receive an invitation from the Government of the United States to take part in a conference of the five powers, the United States, Great Britain, France, Italy and Japan, which it is contemplated may be held in Washington at a time to be mutually agreed upon with a view to considering the question of the limitation of armaments.

As to the suggestion that the proposed conference should also embrace a discussion by the interested powers of the Pacific and Far Eastern problems the Imperial Government find a difficulty in expressing [their] views before they are precisely informed of the nature and scope of these problems and they should be glad to hear the views which may be entertained by the United States Government in this respect.”

BELL

500.A4/17a : Telegram

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

WASHINGTON, July 13, 1921—7 p.m.

399. Have just received cable from our Tokio Embassy giving following memorandum from Foreign Office:

[Here follows text of the memorandum contained in telegram no. 245, July 13, from the Chargé in Japan, printed *supra*.]

Of course it is impossible to prepare precise agenda of conference at this time. Suggest you inform Foreign Secretary of situation. Have not given out Tokio message but as press informed that all others have accepted, Japan's holding aloof from Far Eastern discussion will almost surely direct opinion against her and inadvisability of this course should be apparent.

Should like to know through discreet inquiry in your judgment what subjects, if any, have been suggested by Great Britain to Japan for consideration at such a conference. Our view is that in addition to limitation of armament conference should cover all such Pacific and Far Eastern problems as are of international concern. For example, it would embrace open door, equality of commercial opportunity, integrity of China, integrity of Russia and practical

³⁷ Not printed.

application of these principles, also status of former German possessions in Pacific, cable and radio communication, narcotic traffic and other international Far Eastern questions. This, of course, would exclude purely domestic matters such as immigration, a point which must be frankly stated if necessary.

Would prefer not to answer Japan's inquiry until I have report of your interview with Foreign Secretary, if you can arrange to send promptly.

HUGHES

500.A4/21 : Telegram

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

[Paraphrase]

LONDON, July 15, 1921—9 a.m.

[Received 8:05 p.m.³⁸]

585. Replying to your 399 of July 13, 7 p.m. As requested, I have informed Curzon of the situation. This afternoon he talked with Japanese Ambassador respecting topics likely to be considered by the conference but [the Ambassador] declined to indicate for Japanese Government the subjects he considered suitable or likely to arise as this was entirely within the province of the United States, the power which conveyed the invitation. . . . if you consider essential an immediate reply to Japan, might it not suffice to paraphrase in an expanded form your simple statement of obvious fact that without due reflection presentation of precise agenda of conference could not be made.

Referring to your 394 of July 13, 1 p.m. Curzon appears duly impressed by immediate consequence of the situation in United States but frankly does not consider it as difficult or trying as his own problem, especially respecting the Dominion Premiers. He earnestly reiterates the necessity of their presence and participation in consultation with representatives of the Empire in considering problems of the Pacific and thus clearing the road for proposals of limitation of armaments. The Japanese Ambassador now informs me that there would be no difficulty about representatives of his Government as either the Ambassador at Paris, Ishii, or the Ambassador at Washington, or both would be designated to act. Curzon is convinced, although not definitely assured, that China would authorize her Minister here, Wellington Koo, to act in the same capacity. He thinks it would be desirable for President Harding to designate a specific date in October or [November] to convene

³⁸ Telegram in two sections.

the disarmament conference in Washington. He says the British Government will accept for any date proposed.

However, he feels . . . that there should be held a preliminary conference in regard to the Pacific. By reducing to a minimum the number of essential subjects to be considered, he thinks this could be successfully accomplished to satisfaction of the Premiers. The memorandum he is to prepare will contain what in his judgment these essential subjects would comprise. Curzon says, however, that if such problems as opium traffic are to be considered it would be completely hopeless as it would take at least two months to reach an agreement on that alone. If therefore all the questions even as you enumerate should be designated in the agenda for determination as a matter of first consideration, the time necessary would preclude possibility of attendance of Lloyd George and himself. In point of fact he plainly indicated that if you should regard this method as the only feasible one, he feared that it would be impracticable if not indeed impossible for the British Government to take part in the conference. He desired me to impress this situation very strongly upon you, feeling that you would recognize the [importance?] of the case.

He thinks these obstacles are not insurmountable by any means. However, I must confess my own impression that he seriously doubts whether they are surmountable except by the procedure he proposes. The chief question now seems to be whether or not in these circumstances you should consider it desirable to announce date and place of disarmament conference in conformity with Curzon's expressed willingness to assent, thereby establishing in the public mind the certainty of a meeting, and leave the preliminaries open to quiet negotiations. The British Government, however, realizes fully the intensity of public approval of the President's proposal and that if they should put themselves into a position of obstruction they would invite disaster. Lloyd George and Curzon seem eager to have the complete plan go through to a successful conclusion . . .

HARVEY

500.A4/20 : Telegram

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

LONDON, July 15, 1921—9 a.m.

[Received 1:47 p.m.]

586. Your 398, July 13, 6 p.m. The British Government confirm with satisfaction their acceptance conveyed orally on July 10th through the United States Ambassador of the invitation of the

United States Government to participate in a conference of the five Powers, United States, Great Britain, France, Italy and Japan, to be held at mutual convenience in Washington for the purpose of considering the question of limitation of armaments.

HARVEY

500.A4/517

*Memorandum by the Under Secretary of State (Fletcher)*⁸⁹

[WASHINGTON,] *July 16, 1921.*

You will recall my having told you that the Spanish Ambassador, in the course of a conversation with me several weeks ago, stated that he had received a telegram from his Government instructing him, in view of the newspaper reports with regard to the intention of President Harding to approach various governments on the subject of disarmament, to inquire of the State Department what the status of those negotiations were, intimating that Spain would like to be consulted or invited if a conference were held.

At the time, I told him that the matter was not in such definite shape that I could discuss it, but that I had no doubt his government would be informed in due season of any moves which might be made.

The Secretary of the Spanish Embassy yesterday reminded me of this conversation, and stated that on the strength of it the Spanish Embassy had informed the Spanish Government that Spain would be invited to the conference if it eventuated. I told him that while I had not meant to convey any such impression, he might state to his Government that the President, after consideration of all the circumstances, had concluded to limit his invitation to the four principal allied powers, and that otherwise, of course, Spain would have been one of the powers to have been approached.

[No signature indicated]

500.A4/31a : Telegram

The Secretary of State to the Ambassador in Belgium (Whitlock)

WASHINGTON, *July 18, 1921—3 p.m.*

28. Your 25, July 13, 6 p.m. Please explain informally and orally to Minister for Foreign Affairs that the fact that the Belgian Government was not approached with reference to the Conference on limitation of armament was solely because the President felt com-

⁸⁹ Evidently prepared for the Secretary of State.

elled, after mature consideration, to limit the conference to the five powers; that it was impracticable to arrange for a conference of all the Powers of the world, and no selection was possible save those already defined as the five Principal Allied and Associated Powers; that it clearly appeared that exception could not be made in favor of Belgium, even in the special circumstances of her case, because of the susceptibilities and desires of other friendly governments; that the President does not desire in any way to lower the prestige of Belgium, but on the contrary to enhance it, and it is hoped that Belgium's economic interests in the Far East will make it possible to include her in the discussion relating to Far Eastern questions, a matter of great, if not dominant, importance in the conference and thus affording an opportunity for her participation and cooperation without raising questions as to other Powers not having such interests. The President hopes that this may be arranged without difficulty. You may add that the United States Government hopes to receive from the Belgian Government the same confidence in its friendship and consideration and the same loyal cooperation it has always enjoyed in the past.

HUGHES

500.A4/25 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, July 18, 1921—5 p.m.

[Received July 18—10:40 a.m.]

251. Referring to last paragraph of my 245, July 13. The Japanese Government, according to all indications, will unquestionably accept the invitation to attend the conference. . . .

BELL

500.A4/26 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 18, 1921—5 p.m.

[Received July 18—1:33 p.m.]

264. My telegram no. 259, July 13th, 5 p.m. Yen requests you be informed that China while accepting in principle two conferences would prefer one conference for both disarmament and Pacific problems since disarmament interests all nations and China would like as many nations at the conference as possible. He also greatly desires statement by Great Britain on its attitude toward alliance

before the conference is held. He thinks that Great Britain is suggesting Pacific conference to find possible exit from the alliance dilemma and if conference fails will fall back on the alliance. To prevent this and to assure the success of the conference Yen wants Great Britain to commit herself on the alliance before the conference. Yen thinks that the United States could ask this from Great Britain in return for calling conference. Yen also asks for list of the subjects to be discussed in order to prepare.

RUDDOCK

500.A4/28 : Telegram

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

[Paraphrase]

LONDON, July 19, 1921—10 a.m.

[Received 4:40 p.m.]

591. Curzon returned to London this afternoon, and sent for me before talking with Dominion Premiers or Hayashi.⁴⁰ He was anxious about the effect on Japan of newspaper reports that the whole question of subjects to be considered at Pacific conference was to be left open to decision by all invited powers. He was afraid that to do so might scare them off, . . . He raised again question of possibility of preliminary conference here such as he previously proposed. I replied that I did not have official information on the subject but that from published newspaper reports and information which I had already conveyed by your direction, he could judge as well as I that such a scheme was considered impracticable. Curzon appeared to acquiesce in this conclusion as a matter of fact, if not of judgment, agreeable to himself. Then the question arose as to whether there could be devised a plan of quiet consultation in London during the next few weeks which would appease the Dominion Premiers . . . Curzon had not fully considered the topics that might be advantageously discussed by the Pacific conference but still believed that if actual results were to be attained, the agenda should not be too comprehensive. He again dwelt strongly upon the obvious impossibility of Lloyd George and himself being absent for long and of the unlikelihood of subordinates carrying sufficient prestige to satisfy Great Britain or the Dominions to the satisfaction of the American people.

In the conversation the suggestion developed, entirely tentative and of course subject to your suggestion and amendment, of limiting

⁴⁰ Baron Gonsuké Hayashi, Japanese Ambassador to Great Britain.

Pacific questions to the following: (1) open door for commerce with China; (2) the territorial integrity of China; (3) Shantung and questions relating to it; (4) leased territory in and around the Pacific Ocean.

Problems this conference should ignore but leave for later determination and action might arise as follows: (1) traffic in opium; (2) immigration; (3) possessions of Germany in the Pacific; (4) integrity of Russia.

If immediate questions could be confined substantially within this area, Curzon felt somewhat hopeful that without publicity quiet conferences could be arranged here; that the four Powers concerned—namely, United States, China, Japan, and British Empire with participation of Dominions—could arrive at some sort of an understanding. He was not certain regarding this because he had not yet consulted Hughes or Massey or Hayashi. However, under the circumstances, he considered it the best suggestion that could be evolved at the time looking toward a solution. If a virtual understanding could be reached as a result of such private consultations it might be comparatively easy to dispose of the entire Pacific matter in open conference at Washington within a period of time brief enough to be feasible.

Curzon was very earnest and appeared wholly sincere in desiring that the opportunity resulting from the general acclaim of President Harding's proposal should be made the most of. . . . Upon this theory he should await indication of your suggestions and judgment respecting the general plan, possible amendments, and so forth.

This conversation followed a conference between Curzon and Lloyd George. Obviously the situation is not easy of solution but nevertheless the immense power of world public opinion is beginning to weigh heavily.

HARVEY

500.A4/21 : Telegram

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

[Paraphrase]

WASHINGTON, July 20, 1921—1 p.m.

415. Referring to your 585 of July 15 and 591 of July 19. Opinion in the United States is decisive against a preliminary conference at London. It would not be possible for President Harding to acquiesce in such a radical departure from the published announcement. If terms of announcement are adhered to, conditions are

most favorable to conference. This must be regarded as this Government's final attitude.

I do not have objection to proposed consultations to facilitate preparation for the Conference but I consider it wholly inadvisable that Great Britain and Japan should, without our participation, make an agreement in advance of the Conference. Of course, whatever may be discussed or proposed in consultations must be subject to the President's approval so far as our action is concerned. Consultations may be very helpful subject to these limitations.

I have conversed informally with Shidehara ⁴¹ regarding nature and scope of discussion of Far Eastern questions and assume that the Japanese Government has been advised of views expressed. However, I have not yet formally answered Japanese Government's inquiry cabled to you, as I first desired to have the British Government's views.

I approve Curzon's suggestion that discussion should embrace the following questions: (1) open door for commerce with China; (2) administrative and territorial integrity of China (see circular of John Hay of July 3, 1900 ⁴²); (3) Shantung and questions pertaining to it; ⁴³ (4) leased territory in and around Pacific Ocean. I approve also omission of questions concerning immigration and opium traffic. However, I consider that questions relating to Siberia should be included in discussion, since if a common declaration of policies and principles could be framed, it would naturally involve both Russia and China and we might profitably discuss together fundamental principles applicable to both.

Regarding German possessions in the Pacific, hope that problems in regard to Yap and mandates and cable communications may be settled before the Conference meets. If this were not accomplished, however, it would be necessary that these problems should be threshed out at some time by the interested powers, and if this were not done at the Conference presumably it would have to be done through diplomatic negotiation or at meetings of the Supreme Council. I see no reason why these questions regarding German possessions, if not earlier settled, should not be discussed at Conference, as in the near future they must be settled in the interest of all the powers and as they are essentially questions of international concern in the Far East.

Please take up these matters immediately with Foreign Secretary and reply, . . .

⁴¹ Baron Kijuro Shidehara, Japanese Ambassador at Washington.

⁴² *Foreign Relations*, 1900, p. 299.

⁴³ For papers on the Shantung question, see pp. 613 ff.

Regarding date of the Conference, the President has in mind November 11, Armistice Day, for sentimental reasons, but would be pleased to consider convenience of the British Government. Consider, however, that the Conference should be held not later than November. If it will suit convenience of Dominion Premiers, presumably returning by way of America, to hold the Conference early in October or even at the end of September, would endeavor to arrange it.

Belgium represents that she is entitled to be invited because of the moral position she has won through the war. It was explained that it was not practical to invite all powers of the world and that the only feasible selection for Conference on Limitation of Armament was that of the nations known as the Principal Allied and Associated Powers, but that in discussing Far Eastern problems, in which China was invited to participate, there was no reason to exclude powers with special interests in the East. This may open a way to include in that discussion not only Belgium, which has large interests in China, but also Portugal and the Netherlands, who have approached us regarding their Far Eastern interests.

As stated above I do not object to inclusion of (4), leased territory in and around the Pacific Ocean, but I do not understand reasons why British proposed this. Would it be possible for you to find out what is back of it?

HUGHES

500.A4/42a : Telegram

The Secretary of State to the Chargé in Japan (Bell)

[Paraphrase]

WASHINGTON, July 21, 1921—4 p.m.

114. Embassy's 245 of July 13 and 251 of July 18. Have had informal conversations with Japanese Ambassador dealing generally with the nature and scope of the Pacific and Far Eastern questions to be discussed at the proposed conference. I have expressed the hope that his Government would not press its inquiry in this matter because of the desirability of complete acceptance of this Government's invitation, leaving open to later determination the exact agenda. Although I am willing to proceed with exchanges of opinion regarding agenda before the conference meets, I consider it inadvisable to try to formulate a program now and especially to hold up arrangements for the conference until an

agreement on this problem is reached. You may communicate this view informally to Foreign Office. At the same time please express this Government's cordial appreciation of the readiness of Japan to accept the invitation to conference on the limitation of armament.

HUGHES

500.A4/41 : Telegram

The Consul General at Canton (Bergholz) to the Secretary of State

CANTON, July 22, 1921—noon.

[Received July 22—10:30 a.m.]

At the earnest request Canton Government I mailed the Department July 20th, 4 p.m., a memorandum⁴⁴ in which you are requested to invite the South to send delegates to the conference at Washington to participate in the deliberations of matters so vitally affecting China. The memorandum states that since the Government at Canton represents democratic and progressive principles and is gaining strength and prestige visibly from day to day and enjoys the confidence of the Chinese people in the North as well as South it should be represented at the conference which is of such supreme importance to the Pacific peoples and the whole world; that no diplomatic technicalities should be allowed to interfere with its complete success.

BERGHOLZ

500.A4/144

The Chargé in Sweden (Crosby) to the Secretary of State

No. 2145

STOCKHOLM, July 22, 1921.

[Received August 18.]

SIR: I have the honor to advert to my telegram No. 57 of July 21, 1921, 6 P.M.⁴⁴ relative to a communication which was received by me from Mr. Kergentzeff, Representative in Sweden of the Russian Soviet Republic; and to transmit herewith the note on which my above mentioned telegram was based together with a copy of the letter which accompanied it.

I have [etc.]

SHELDON LEAVITT CROSBY

⁴⁴ Not printed.

[Enclosure]

The Representative in Sweden of the Russian Socialist Federated Soviet Republic (Kergentzeff) to the American Chargé in Sweden (Crosby)

No. 2275

STOCKHOLM, July 21, 1921.

DEAR SIR: According to the instructions from my Government, I am forwarding to you herewith a note, which I beg to ask you to transmit to the Secretary of State, Mr. Charles Hughes, Washington.

I remain [etc.]

KERGENTZEFF

[Subenclosure—Translation ⁴⁵]

The People's Commissar for Foreign Affairs of the Russian Socialist Federated Soviet Republic (Chicherin) to the Governments of the United States, China, France, Great Britain, Italy, and Japan

The Russian Government learns through the foreign press that a conference of powers possessing sovereignty or having interests in the Pacific area will shortly be held in Washington.

The Russian Government, as a sovereign Pacific power, cannot conceal its astonishment at learning of the existence of the intention to call such a conference without its participation.

Although the Russian Republic and the Far Eastern Democratic Republic possess territories on the shores of the Pacific Ocean, the powers which adopted the decision to meet in Washington neglected to invite the Russian and Far Eastern Republics to this conference. This fact, extremely serious in itself, is made still more so by the circumstance that, during the exchange of views on this subject, concerning which communications were made to the press, the right of Russia to participate in a conference for the discussion of questions connected with the Pacific was fully admitted. But the above-mentioned powers declare that they will themselves take into consideration the interests of Russia, without the latter's representation, and reserve the matter of inviting eventually a new Russian Government, which should replace the present one, to accede to the decisions and agreements they adopt.

The Russian Government can in no case agree to other powers taking upon themselves the right to speak for it, especially since this ostracism is intended to apply only to the [Workers' and Peasants' Government, while any] ^{45a} counter-revolutionary government which

⁴⁵ Supplied by the editor.

^{45a} Words in brackets, omitted from the French text transmitted by the Chargé, have been supplied from the translation printed in *The Soviet Union and Peace*, p. 78.

might replace it would not be subjected to such ostracism. Such an attitude on the part of the aforementioned powers can only be interpreted as clearly favoring the Russian counter-revolution, and as a fresh manifestation of the interventionist system.

The Russian Government strongly protests against its exclusion from a conference which touches it directly, and against any intention of any power whatsoever to adopt decisions touching the Pacific without consulting Russia.

The Russian Government solemnly declares that it will not recognize any decision taken by the above-mentioned conference, inasmuch as this gathering is being held without its participation. Whatever may be the decisions of this conference, the Russian Government, not participating in it, maintains for that reason complete freedom of action in all questions there discussed, and will exercise this freedom of action in all circumstances and by all means which it considers proper. It will thus be able to upset any plans whose realization may be prepared by this conference which may be hostile towards it or not in accordance with its views. The Russian Government believes it is warranted in asserting that the decisions of this conference will be null and of no effect in view of the absence and nonparticipation of one of the principal interested parties.

At the same time the Russian Government considers itself obliged to declare that it can regard the preference eventually to be shown by the above-mentioned Governments to a counter-revolutionary government replacing it only as a hostile act directed against itself and against the Russian workers and peasants whose will it represents.

The Russian Government has also learned that a more general question, that of disarmament, or at least naval disarmament, will be discussed at the coming conference.

The Russian Government can only welcome gladly any attempt at disarmament or reduction of the military burdens which weigh upon the toilers in all countries. It considers indispensable, however, a preliminary knowledge of what guarantees can be given that this disarmament will really be effected, taking into consideration that the possibility of such guarantees at the present time seems to it highly doubtful. Nevertheless, disarmament in itself can only meet with its sympathy. Disarmament, in its opinion, is one of the results towards which the extension of social changes such as those which have occurred in Russia, is bound to lead. The absence, however, of the Russian Government from an international deliberation on this subject will merely have the effect of forcing Russia to ignore the decisions reached, in which the Russian Government, not being represented, will have no part.

A policy tending to leave Russia outside the collective decisions of various powers on questions concerning her, far from conducing to the settlement of the conflicts at present disturbing the world, can only render them more acute and more complicated.

CHICHERIN

Moscow, *July 19, 1921.*

500.A4/43 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, *July 23, 1921—2 p.m.*

[Received July 23—10:35 a.m.]

253. Department's 114 of July 21 presented to Uchida⁴⁶ who said he had already received several cables from Shidehara in regard to his conversations with you and now that I had answered his inquiry of July 13, he felt personally that a favorable response to the original inquiry of the United States would not be delayed. He intimated that Japan's answer would probably be that they were willing to accept an invitation to take part in discussion of Far Eastern and Pacific problems along lines indicated in conversations already held and which may hereafter be held. Uchida said he would discuss the problem Monday with his colleagues and hoped to hand me an appropriate answer on Tuesday, July 26.

BELL

500.A4/58 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, *July 26, 1921—10 p.m.*

[Received July 27—9:44 a.m.]

255. Embassy's 253 of July 23, 2 p.m. At conclusion of interview Uchida told me he was to spend the week-end in the country and desired that during his absence the Foreign Office should study my Government's communication. He therefore asked if I would write out my oral statements which he was afraid he could not carry in his [memory?]. I willingly consented to do this on the understanding that they, like the statements I made July 11, should be considered informal. Later the same day I sent Count Uchida's

⁴⁶ Count Yasuya Uchida, Japanese Minister of Foreign Affairs.

private secretary the following notes of my remarks to His Excellency based on your cable:⁴⁷

“The Government of the United States deeply appreciates the readiness of the Imperial Japanese Government to accept the invitation to attend the conference on the limitation of armaments.

The Secretary of State of the United States in the course of informal conversations with His Excellency, the Imperial Japanese Ambassador at Washington, has expressed the hope that the Imperial Government would not press its inquiry as to the nature and scope of the Pacific and Far Eastern problems to be discussed at the proposed conference in view of the fact that it is desirable that the full acceptance of the invitation of the American Government leave this matter open for adjustment in the precise agenda to be arrived at later.

The Secretary of State is willing to proceed with exchanges of opinion regarding the agenda prior to the meeting of the conference. He considers it inadvisable, however, at the present moment to hamper the program and in particular to delay the arrangements for the conference pending an agreement regarding this matter.”

The Cabinet has apparently been discussing the matter all day today and I have just now received the following memorandum dated today from the Foreign Office.

“The Japanese Government have taken note of the contents of the American memorandum of July 23rd, received through the American Chargé d’Affaires, in reply to the Japanese memorandum of July 13th, on the subject of a conference on the limitation of armaments to be held at Washington.

It has been brought to the knowledge of the Japanese Government that the Government of the United States is willing to proceed with exchanges of opinion regarding the agenda prior to the meeting of the conference and that it considers it advisable to adjust in that agenda the nature and scope of the Pacific and Far Eastern questions to be discussed at the proposed conference. The Japanese Government, on that understanding, are happy to be able to inform the American Government that it is their intention gladly to accept an invitation for a conference which shall embrace the discussion of the Pacific and Far Eastern questions.

The Japanese Government have been made aware through the communications and the published statement of the American Government and the conversations between the Secretary of State and Baron Shidehara that the proposition of the American Government to discuss the Pacific and Far Eastern problems is based on the close bearing they have on the question of the limitation of armaments which is the original and principal aim of the conference, and that therefore the main object of discussing these problems is to reach a common understanding in regard to general principles and policies in the Pacific and the Far East. Desiring, as they [do], to contribute to the establishment of an enduring peace and to the advancement of human welfare, the Japanese Government earnestly hope that the proposed

⁴⁷ This first paragraph paraphrased.

conference may attain the expected results and their ideals may thereby be brought nearer to realization.

In order to ensure the success of the conference, the Japanese Government deem it advisable that the agenda thereof should be arranged in accordance with the main object of the discussions as above defined, and that introduction therein of problems such as are of sole concern to certain particular powers or such matters that may be regarded accomplished facts should be scrupulously avoided."

BELL

500.A4/58 : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, July 27, 1921—5 p.m.

118. Your 255, July 26, 10 p.m.

In order to obviate misunderstandings likely to arise through speculations as to Japan's attitude, I am today giving to the Press a statement concerning the acceptance by all interested Powers of the proposals for the Conference, and embodying in that statement the text of your memorandum of the 23rd and the Japanese memorandum of July 26.

Department understands that Japanese Ambassador is telegraphing his Foreign Office as to the desirability of immediate publication here and suggesting that the texts be published in Japan without delay.

HUGHES

500.A41a/141

*The British Foreign Office to the British Ambassador at Washington (Geddes)*⁴⁸

Some doubt appears to exist as to nature and locality of preliminary consultations or conversations which United States Government has signified its willingness to hold before meeting of Pacific conference at Washington later in the Autumn. Further, in tangle of correspondence by telegraph between interested parties there appears to be grave danger that scheme may miscarry not because there is any real difference between us but because of misunderstandings which personal intercourse could easily explain. Please see Secretary of State at once and say not only do His Majesty's Government attach utmost importance to such a preliminary conversation between representatives of United States Japan and British Empire at a very early date but so vital do they regard matter that they are prepared although Session of Parlia-

⁴⁸ Handed to the Secretary of State by the British Ambassador, July 27, 1921.

ment is not yet over to make arrangements for meeting of Ministers to cross Atlantic in order to discuss these questions on American soil.

Object of meeting which need not be lengthy would be to consider agenda for larger conference and if possible arrive at common understanding on wider principles which should underlie future Pacific policy of three Powers.

We are strongly of opinion it would be desirable to select some other site than Washington since latter is already associated with larger conference later on and countries which have been invited to latter might take umbrage if they found themselves excluded from preliminary gathering at the same place. On the other hand no one could complain of informal conversations elsewhere between representatives of three Great Powers principally concerned in Pacific in order to discuss arrangements for subsequent conference. The nearer the place of meeting to England the more convenient for reasons of time would it be to ourselves in order to curtail as far as possible period in which Ministers will be absent. At end of session even a day saved counts.

If the United States Government is disposed to issue such an invitation and if Japan's acceptance is secured Prime Minister accompanied by Dominion Premiers would be willing to start with as little delay as possible for selected spot.

In making this suggestion please assure Secretary of State that His Majesty's Government are actuated by sincere desire to further policy so happily initiated by United States Government and by confidential interchange of friendly views in advance to remove obstacles which threaten seriously to jeopardise success.

500.A4/62: Telegram

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

[Paraphrase]

LONDON, July 27, 1921—6 p.m.

[Received July 27—4:37 p.m.]

618. Supplementing the proposal just read to me by Curzon, which Geddes will hand to you, the following is tentative British itinerary if you accept:

Balfour and Curzon will attend August 4 meeting of Supreme Council at Paris. . . .

On August 12, Lloyd George, Curzon, Meighen,⁴⁹ Hughes, and Massey to sail direct to Bar Harbor on a fast warship, arriving

⁴⁹ Arthur Meighen, Canadian Premier and Secretary of State for External Affairs.

August 18. They would remain one week returning August 25 to arrive in England on August 31. If acceptable to you and if housing arrangements can be made, they prefer Bar Harbor because as contrasted with New York or other port they could save one day sailing each way. Accommodations for the British delegation in cottages or hotels would be required for 20 to 24 including secretaries, etc., and for 15 personal servants. The Japanese, Curzon estimates, would require accommodations for 10 to 20. You should of course determine accommodations for your delegation and number comprising same. . . .

This proposal goes today to Japan but clearly Curzon expects a favorable response.

HARVEY

500.A4/62 : Telegram

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

WASHINGTON, July 28, 1921—9 p.m.

429. Your 618, July 27, 6 p.m.

Last evening Geddes presented text of cable from Foreign Office to which I understand you refer. Geddes said in substance that there apparently was some difference in points of view of the two Governments; that Foreign Office had contemplated preliminary conference. I recalled his attention to order of events, pointing out how careful we had been to avoid any possible misunderstanding; that we had taken the extraordinary precaution of sending the exact text of the President's announcement, which was clear, succinct and comprehensive in order that we might have definite approval of British Government before it was made public; that we had published the announcement only after receiving the Prime Minister's definite and complete approval. Geddes expressed surprise at this statement, asking particularly whether Lloyd George was acquainted with the text of the announcement before it was given to the Press and I assured him that he was. I added that quite apart from this, after the publication on Monday, July 11th, the Prime Minister had expressed his unqualified approval in his speech in Parliament. I told him that I had read the announcement and editorials in the British Press and that I had failed to find any misunderstanding whatever with respect to the proposed conference; that the procedure had been clearly defined and widely approved, so that I could not understand any suggestion that the purport of the American announcement had not been fully understood.

I emphasized this in reference to the statement in Foreign Office telegram submitted by Geddes that "in tangle of correspondence by

telegraph between interested parties there appears to be grave danger that scheme may miscarry not because there is any real difference between us but because of misunderstandings which personal intercourse could easily explain." I told Geddes that I did not understand this, as everything to me seemed quite clear.

With reference to first sentence in Foreign Office telegram that "some doubt appears to exist as to nature and locality of preliminary consultations or conversations which United States Government has signified its willingness to hold before meeting of Pacific Conference at Washington later in the autumn," I referred to my telegram to you, Number 415, of July 20, that I had no objection to proposed consultations to facilitate preparation for conference. This was to be taken in connection with preceding sentence of same telegram that conditions are most favorable to conference if terms of announcement adhered to, and this must be regarded as final attitude of this Government. I told Geddes that while we had not the slightest objection to all consultations that could prove helpful, we deemed it inadvisable that there should be a meeting which would partake of the nature of a preliminary conference, for reasons which had already been communicated to the British Government through you. I assumed that the consultations in question would be such as could conveniently take place in London between Curzon and Dominion Premiers and with you and other Ambassadors, and similar consultations with Ambassadors here, out of which might emerge helpful suggestions.

With respect to proposition contained in Foreign Office telegram and amplified by your 618, July 27th, this Government entertains the following views. It would be impossible to call such a meeting anything but a conference of the first importance. It would bring together the leading statesmen of the British Empire in consultation with the representatives of this Government and Japan. To describe this as a consultation instead of a conference would be ineffectual.

Manifestly, such a conference on American soil could be called only by the President. As it would be impossible for the President to call a conference or any part of a conference to meet in London or anywhere else except in the United States, so it would be impossible for a conference to meet in the United States to be called by anyone but the President.

But for the President to call such a conference with Great Britain and Japan, after he had already asked France, Italy and China to attend a conference, which would embrace the discussion of Far Eastern questions, could hardly fail to be regarded by the countries omitted from the preliminary conference as a discourtesy, and I do

not see that it will be possible to alter the effect by merely changing the place of the conference from Washington to Bar Harbor. It seems to me that it would be the calling of the conference and not its particular location in the United States which would be regarded as significant. The President feels that it would be quite impossible for him, having made his announcement, which has received the approval of all the Governments to which his proposal was addressed, now to depart from the announced plan by calling another conference of three of the governments to deal with the same subjects in advance.

If at such a preliminary meeting the agenda were framed or any controlling action taken, it would be felt that the conference had in fact been forestalled. If there was a failure to reach an agreement because of divisions of opinion, the success of the main conference might easily be jeopardized.

Again, the proposition of a week's meeting at Bar Harbor seems to contemplate rather speedy action. The Japanese Ambassador, calling today, and referring, without being informed by me, to what he had heard of some such proposal for a preliminary meeting in this country, directed attention to the fact that the British Empire would be represented by her Prime Ministers; that the American Government would be fully represented; and that Japan necessarily would be without an equivalent representation and that whatever was done would have to be referred to Tokio. This would mean, as I understood the Japanese Ambassador clearly to intimate, that such a preliminary meeting would be without definite results, so far as Japan was concerned. It is possible, of course, that something might be achieved if we were content with some very general observations, but I am disposed to think that such a brief preliminary meeting would fail of its purpose.

Further, I have no doubt of the effect upon American opinion of such a departure from the President's announcement. At this time there is almost unanimous approval of the course that has been taken, and Japan's acceptance yesterday being deemed to remove the last obstacle to the conference, it would greatly surprise our people if it were found that Great Britain, where emphatic approval was at once voiced when the President's announcement was made, contemplated anything else but participation in the conference in accordance with the President's plan. Of course, you will make it plain that it would have given the President the greatest pleasure to welcome Lloyd George, Curzon and the Dominion Premiers, and that he appreciates the inconvenience they are willing to undergo in the interest of a meeting here, but he cannot escape the conclusion that the above considerations are controlling.

The President is most desirous that everything should be done through interchanges of views and the availing of opportunities for consultation in London and Washington to facilitate agreement as to the subjects for discussion and thus to promote the success of the conference. It is with great regret that he finds himself unable to accept the British proposal but he is clearly of the opinion that there should be adherence to his original announcement.

Now that Japan has expressed her willingness to accept an invitation, it is desired that the formal invitations should be sent out as soon as possible, and it is hoped that the conference can be held this autumn. It should be noted that the convening of the Conference in the Autumn is assumed in the telegram of the British Government, submitted by Geddes, which refers to conversations "before meeting of Pacific Conference at Washington later in the Autumn". I recur to what I said in my 415 of July 20th, that the President had in mind November 11th but would gladly have regard to convenience of British Government, and that if it would convenience Dominion Premiers returning via America to have conference in early October or even at the end of September, would endeavor so to arrange. I may add that if Premiers must return earlier, it would give me great pleasure to see them if they could stop in Washington.

You may communicate with Curzon in the above sense, making it clear that while we are very desirous of facilitating consultations as above suggested, it is deemed to be inadvisable to have a preliminary conference or a meeting of the three Powers which would be tantamount thereto.

I have said nothing with regard to the physical arrangements for such a meeting at Bar Harbor as early as suggested, but it may be added that it would be difficult, if not impossible, to effect them.

HUGHES

500.A4/90b : Telegram

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

[Paraphrase]

WASHINGTON, August 2, 1921—3 p.m.

436. Speaking from Foreign Office telegram, Geddes today said his Government, in view of our recent conversations, would not further pursue question of preliminary conference; that they regretted there had been a misunderstanding; that they hoped and expected the conference would be successful, and desired the United States to take full responsibility for arrangements in order to avoid possibility of further misunderstanding.

I asked the Ambassador if this meant we should fix a date, and he said he could not go beyond his instruction. However, he interpreted it to mean that we should do so. I said that you had already made suggestions to Curzon as to the date; that we had asked also for views regarding agenda; that Curzon had made some suggestions to which we made countersuggestions; that I hoped there would be a continuation of this interchange of views, as the conference could only be made successful in this way.

This apparently ends suggestion of preliminary conference, and we should immediately arrange for a date for conference in Washington. Ascertain if November 11 would be agreeable. If Great Britain leaves this to us we shall suggest this date immediately to the other Governments.

HUGHES

500.A4/91 : Telegram

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

[Paraphrase]

LONDON, August 3, 1921—11 p.m.

[Received August 4—7 a.m.]

641. Referring your 436, August 2. Curzon says any date United States desires will be agreeable to Great Britain. He understands that we will suggest such date to other Governments concerned.

HARVEY

500.A4/96 : Telegram

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

LONDON, August 4, 1921—5 p.m.

[Received August 4—4:44 p.m.]

643. As a result of debate on Navy estimates August 3d House of Commons passed appropriation of £11,845,600 in regard to their personnel, shipbuilding, etc., including program for four new capital ships. Amendment defeated by 346 votes to 34. Mr. Churchill in the House referring to the Washington conference quoted by press as follows:

“We must stand on our own feet and not risk being reduced at some time to have to supplement our strength by the strength of others. Only in that way would we be able at the Washington conference to play the part of a real peacemaker; only in that way to be able to walk hand in hand with the United States not as a suppliant for protection but as an equal partner in a common victory and an equal partner in the future of the world.”

HARVEY

500.A4/100: Telegram

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

LONDON, August 6, 1921—9 p.m.

[Received August 6—9 p.m.]

659. For the Secretary of State, sent by instruction of the Ambassador. The following appears in today's newspapers:

"We have received from an official source the following statement on the Japanese press and public opinion on the question of the Washington conference.

'The public in Japan seems to have been struck, first of all, by the suddenness with which the President of the United States brought forward his proposal for a conference on the reduction of armaments and the settling the Pacific.

Nothing was said at first in disagreement with the proposals because it was generally assumed that America was deeply concerned with the question of international peace and the solution of the Pacific problem, but later on a feeling gradually became manifested that Great Britain was responsible for the real initiative lying behind the proposal. This feeling changed the character of public discussion from the question of the conference to that of the continuation of the Anglo-Japanese alliance.

Newspapers such as the *Jiji* and the *Yokohama Iura* which may be described as adopting a conciliatory attitude expressed a certain amount of sympathy with Great Britain on account of the difficulties of her [position?], while the *Kokumin* and the *Hochi* whose political tone is usually high-handed expressed the opinion in their editorials that Japan had been imposed upon.

The attitude of America has also occupied great space in the editorial columns since discussion of the conference was fairly started. Both the *Jiji* and the *Yokohama Iura* consider that the American proposal should be accepted in an unquestioning spirit of faith. The *Asahi* of [Tokyo] and that of Osaka have both adopted a more or less conditional standpoint and the attitude of disliking unconditional agreement to the American proposals has been taken by the great majority of newspapers.

In the course of discussion the following points have been [mentioned?]. Japan is ready to reduce her military plans to the minimum necessary for her own self-defense on condition that America frankly and promptly adopts a similar course.

With regard to the Pacific question the newspapers ask what is actually to be discussed at the conference. Japan's Chinese and Siberian policy has already been decided upon and the Shantung and Yap question has surely been settled under the terms of the peace treaty with Germany. Supposing that America's real intention lies in a desire to force China into the adoption of the open door and equal opportunities policies and other similar restrictions, why does not America adopt such measures herself and suggest them for Australia. It is surely unreasonable too that Italy should be made a party to the Pacific conference to the exclusion of Holland and the Southern and Central American Republics.

All these questions are regarded by the Japanese press as indicating inconsistencies on the part of America who seems to be aiming at the lion's share of continental Asia regardless of the fact that she persists in the Monroe Doctrine with regard to Central and South America. Public opinion on the whole is stirred by no small enthusiasm and to an almost unprecedented extent. The reduction of armaments is regarded as excellent in principle but it is considered that in practice it will meet with almost insurmountable difficulties. It is also felt that powerful countries such as Great Britain and America should frankly give the lead in the reduction of armaments. The public also favor a solution of the Pacific problem but want to know to what extent the conference will proceed to deal with it. In this connection it is regarded as undesirable that only problems unfavorable to Japan and favorable to America should be taken up especially those which have already been dealt with under the treaty of peace with Germany and by the League of Nations. It is also asked, what is the position of the League of Nations in regard to the Pacific conference.

On the whole it emerges both from the press and from general discussions that at the present moment, although American earnestness and disinterestedness are generally taken for granted, there is certain current of opinion unfavorable to the American proposal, because, although theoretically it is regarded with complete approval, it is felt that a practical result cannot be recorded with any degree of confidence.' ”

Following an inquiry as to authenticity of the statement the first secretary of the Japanese Embassy called upon me and informed me that it had been prepared solely for the Embassy's files and had not been intended for publication. He told me confidentially that it had been given to the press by error of a clerk and that while it was a true *précis* of Japanese opinion Baron Hayashi was deeply chagrined that it had reached the public in the form of an official *communiqué*.

WHEELER

500.A4/102 : Telegram

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

LONDON, August 7, 1921—11 a.m.

[Received 8:24 p.m.]

660. For the Secretary State, sent by instructions of the Ambassador. A summary of the transaction of the Prime Ministers and representatives of the United Kingdom, the Dominions, and published yesterday, after reciting the statement of Lloyd George in the House of Commons July 11th (see Hansard⁶⁵) contains the following:

“In accordance with the suggestion which was believed to have been made by the American Government that the conference on disarmament should be preceded by friendly conversations or consultation between the powers who were principally concerned in the future of the Far East and the Pacific, the Imperial Conference anxious that for the Anglo-Japanese agreement should be substituted some larger arrangement between the three great powers concerned, namely the United States of America, Japan and Great Britain, and holding the firm conviction that the later discussions on disarmament to which they attached a transcendent importance could best be made effective by a previous mutual understanding on Pacific questions between those powers devoted many hours of examination to the question how such an understanding could best be arrived at, where the proposed conversations could best be held, in what manner the representatives of the British Dominions who were so vitally affected could most easily participate in them, and upon what broad principles of policy it was desirable to proceed. It was difficult for the Dominion Prime Ministers owing to the exigencies of time and space to attend at Washington late in the autumn. On the other hand advantage might be taken of their presence in England to exchange views with representatives of the

⁶⁵ 144 H. C. Deb. 5s. 914.

other great powers who had been invited to Washington later. It was in these circumstances that the idea was mooted that the preliminary conversations or consultations to which the American Government had in principle agreed should be held in London. When it transpired a little later that there was the misunderstanding as to the nature of the preliminary conversations which had been suggested, the British Government, in the earnest desire to remove any possible misconception and to meet what they believed to be the American views, at each stage of the impending discussion, volunteered to attend a meeting on the other side of the Atlantic, at which the agenda of the forthcoming conference at Washington could be discussed, and a friendly interchange of views take place in order to facilitate the work of the main conference later. The British Prime Minister and Foreign Secretary together with the Dominion Prime Ministers were prepared to attend such a meeting if invited to do so by the American Government.

The Japanese Government signified their willingness if invited to take part in the suggested conversations.

The American Government however did not favor the idea which was accordingly dropped.

This conclusion was viewed with the utmost regret by the members of the Imperial Conference, who had devoted much time to the working out of arrangement which they understood would be equally acceptable to all parties and the abandonment of which, they feared, could not be otherwise than prejudicial to the great objects which all had in view. At no time had it been suggested that the results of such a conference as was contemplated should either anticipate the work or tie the hands of the Washington conference at a later date. On the contrary, holding as they do the firm belief that without a Pacific understanding the conference on disarmament will find it less easy to attain the supreme results which are hoped for by all, the Imperial Conference made the proposal before referred to, anxious to remove every possible obstacle from the path of the Washington meeting, which they desire to see attended with complete and triumphant success."

WHEELER

500.A4/72

The Secretary of State to the Minister in the Netherlands (Phillips)

No. 198

WASHINGTON, August 9, 1921.

SIR: Referring to Mr. Armour's Despatch No. 632, July 13, 1921,⁶⁶ and to the personal conversation which you had with the Secretary concerning the participation of The Netherlands in the forthcoming Conference on Limitation of Armament by reason of Dutch colonial possessions in the Pacific, you are informed that the Dutch Chargé d'Affaires⁶⁷ and Dr. Hubrecht⁶⁸ have conversed with several officers

⁶⁶ Not printed.

⁶⁷ W. H. de Beaufort.

⁶⁸ Dr. J. B. Hubrecht, secretary of the Netherland Legation at Washington.

of the Department on this subject, and presumably have transmitted these conversations to The Netherlands Foreign Office.

Dr. Hubrecht, on July 11, stated that he had come to the Department to make an informal and personal inquiry as to whether The Netherlands had been invited to participate in the Conference on Far Eastern Affairs. He was told that no steps had been taken toward inviting Holland, and he therefore unofficially presented certain considerations showing the interest which The Netherlands would have in such a Conference. He said that, if the Conference was to be restricted to matters concerning China, there might be reason for excluding Holland, whose interests were relatively small, but that if the Conference should consider Far Eastern and Pacific questions in their broader aspects, with particular reference to economic problems, it would seem that Holland should be entitled to participate by reason of her large possessions in the East Indies, with a population of fifty millions.

He cited the Djambi oil question⁶⁹ as an instance of the sort of economic question which he conceived it would be to the interest of this Government to make one of the subjects of the Conference. He referred also to the case of Yap and the cables centering there, and intimated that if the American Government should not take the initiative in securing the participation of Holland, it might be expected that some other Nation would do so. It was not clear to the officer of the Department with whom he was talking whether this reference he had in mind was to Great Britain or Japan.

Dr. Hubrecht said further that failure to participate in the Conference might easily lead to serious consequences for The Netherlands, by reason of the effect upon the prestige of the mother country among the natives of the Dutch East Indies who, he said, were reconciled to Dutch control but were, nevertheless, conscious of the new political movements stirring among the races of Asia. He felt that Dutch prestige might be compromised in their eyes if the Powers were to ignore The Netherlands as a power in the Pacific.

Dr. Hubrecht was told that no final decision had been made about participation in the Conference, but that it had seemed desirable to begin the preliminary discussion of the matter with the smallest number possible, leaving it to future developments to determine how extensive the scope of its deliberations should be and whether other Powers would be invited to join, and that in the meantime it would probably be impossible to give any definite indication of the intention of this Government to request Dutch participation.

Two days later, the Chargé d'Affaires called on the Assistant Secretary and repeated that his Government was extremely interested

⁶⁹ See vol. II, pp. 528 ff.

in the Conference. He also repeated that he had no instructions to make inquiries, but that he had received a cable informing him that the Dutch Foreign Minister had already told Mr. Armour of the interest of the Dutch Government and of the fact that the Dutch Government would be glad to have an opportunity to express its views and ideas with regard to the Pacific situation.

Mr. Dearing⁷⁰ told Mr. de Beaufort that anything definite the Department had to say should come from the Secretary, and Mr. de Beaufort promised to speak to the Secretary on the next Diplomatic day. At that time, the Secretary explained to Mr. de Beaufort the attitude of this Government in the matter, much as he explained it to you in your personal interview with him.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

500.A4/117c: Telegram

*The Secretary of State to the Chargé in Great Britain (Wheeler)*⁷¹

WASHINGTON, August 11, 1921—1 p.m.

468. Please present the following formal invitation to the Minister for Foreign Affairs:

"The President is deeply gratified at the cordial response to his suggestion that there should be a Conference on the subject of Limitation of Armament, in connection with which Pacific and Far Eastern questions should also be discussed.

Productive labor is staggering under an economic burden too heavy to be borne unless the present vast public expenditures are greatly reduced. It is idle to look for stability, or the assurance of social justice, or the security of peace, while wasteful and unproductive outlays deprive effort of its just reward and defeat the reasonable expectation of progress. The enormous disbursements in the rivalries of armaments manifestly constitute the greater part of the encumbrance upon enterprise and national prosperity; and avoidable or extravagant expense of this nature is not only without economic justification but is a constant menace to the peace of the world rather than an assurance of its preservation. Yet there would seem to be no ground to expect the halting of these increasing outlays unless the Powers most largely concerned find a satisfactory basis for an agreement to effect their limitation. The time is believed to be opportune for these Powers to approach this subject directly and in conference; and while, in the discussion of limitation of armament, the question of naval armament may naturally have first place, it has been thought best not to exclude questions pertaining to other

⁷⁰ Fred M. Dearing, Assistant Secretary of State.

⁷¹ The same, *mutatis mutandis*, to the diplomatic representatives in France (no. 385), Japan (no. 132), and Italy (no. 138). (File nos. 500.A4/117 b, d, e.)

armament to the end that all practicable measures of relief may have appropriate consideration. It may also be found advisable to formulate proposals by which in the interest of humanity the use of new agencies of warfare may be suitably controlled.

It is, however, quite clear that there can be no final assurance of the peace of the world in the absence of the desire for peace, and the prospect of reduced armaments is not a hopeful one unless this desire finds expression in a practical effort to remove causes of misunderstanding and to seek ground for agreement as to principles and their application. It is the earnest wish of this Government that through an interchange of views with the facilities afforded by a conference, it may be possible to find a solution of Pacific and Far Eastern problems, of unquestioned importance at this time, that is, such common understandings with respect to matters which have been and are of international concern as may serve to promote enduring friendship among our peoples.

It is not the purpose of this Government to attempt to define the scope of the discussion in relation to the Pacific and Far East, but rather to leave this to be the subject of suggestions to be exchanged before the meeting of the Conference, in the expectation that the spirit of friendship and a cordial appreciation of the importance of the elimination of sources of controversy, will govern the final decision.

Accordingly, in pursuance of the proposal which has been made, and in the light of the gracious indication of its acceptance, the President invites the Government of Great Britain to participate in a Conference on the subject of Limitation of Armament, in connection with which Pacific and Far Eastern questions will also be discussed, to be held in Washington, on the 11th day of November, 1921."

HUGHES

500.A4/117a : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, August 11, 1921—1 p.m.

225. Please present the following formal invitation to the Minister for Foreign Affairs:

"The President is deeply gratified at the cordial response to his suggestion that there should be a Conference on the subject of Limitation of Armament, in connection with which Pacific and Far Eastern questions should also be discussed.

It is quite clear that there can be no final assurance of the peace of the world in the absence of the desire for peace, and the prospect of reduced armaments is not a hopeful one unless this desire finds expression in a practical effort to remove causes of misunderstanding and to seek ground for agreement as to principles and their application. It is the earnest wish of this Government that through an interchange of views with the facilities afforded by a conference, it may be possible to find a solution of Pacific and Far Eastern problems, of unquestioned importance at this time, that is, such common

understandings with respect to matters which have been and are of international concern as may serve to promote enduring friendship among our peoples.

It is not the purpose of this Government to attempt to define the scope of the discussion in relation to the Pacific and Far East, but rather to leave this to be the subject of suggestions to be exchanged before the meeting of the Conference, in the expectation that the spirit of friendship and a cordial appreciation of the importance of the elimination of sources of controversy, will govern the final decision.

Accordingly, in pursuance of the proposal which has been made, and in the light of the gracious indication of its acceptance the President invites the Government of the Republic of China to participate in the discussion of Pacific and Far Eastern questions, in connection with the Conference on the subject of Limitation of Armament, to be held in Washington, on the 11th day of November, 1921."

HUGHES

500.A41a/92

*Memorandum by the Chief of the Division of Far Eastern Affairs,
Department of State (MacMurray)*

[WASHINGTON,] August 13, 1921.

The Chinese Minister called this morning and read me a portion of a telegram (translation attached herewith) which he had received from his Government, inquiring as to the accuracy of certain information communicated by the Chinese Minister in Tokyo (Mr. Hoo) concerning the forthcoming Conference on Far Eastern questions. . . .

Mr. Sze asked me as to the truth of the statements contained in this telegram. I told him as to (a) that I knew of no discussion of the subject, although some views of the sort might very well have been mentioned in conversation quite as a matter of course. As to (b), I said that I knew of no basis for the statement other than the position which the Secretary had quite unreservedly and openly taken, that the Powers invited to the Conference are sovereign nations which cannot of course be coerced into any discussion or action against their will. With respect to the inquiry concerning matters in reference to China, I told him that absolutely no agenda or programme had yet been agreed on; and that, so far as concerns Shantung, no agreement had been reached as to discussing the question or leaving it out, although what I had said before as to the right of any sovereign nation to exercise its discretion about discussing any particular question would no doubt apply to this matter.

I suggested that he give me a copy or translation of the telegram, and he promised to send it in the afternoon, asking if I could in the meanwhile ascertain the Secretary's views on the questions raised.

I therefore spoke to the Secretary about the matter; and he in general terms confirmed what I had told Mr. Sze, and directed me to say to the Minister that there was no occasion for him or his Government to be anxious—that nothing had yet been decided as to the agenda, and that the Chinese Minister would be kept advised as to the decisions which are made.

The Counselor (Mr. Yung Kwai,) called in the afternoon, to give me the attached translation from the telegram; and I confirmed what I had told Mr. Sze, and gave him the Secretary's message, adding that I hoped he would impress his Government that nothing is going to be "put across" behind their backs.

MACM[URRAY]

[Annex]

*The Chinese Foreign Office to the Chinese Minister at Washington
(Sze)*

According to a cable despatch from Minister Hoo it is said that Great Britain, the United States and Japan have come to an understanding at Washington upon the following:

(a) At the Pacific Conference no representative shall be allowed from a government not yet recognized.

(b) With regard to subject matter for discussion no question shall be decided unless by unanimous consent.

With reference to China—

1. The Open Door Policy.
2. Equal Opportunity for All.
3. The preservation of territorial integrity.

As for Shantung, the question is not on the agenda. In case this question is raised, any objection from one country will withdraw it from discussion.

PEKING, *August 12th, 1921.*

500.A4/141

The Chinese Minister (Sze) to the Secretary of State

WASHINGTON, *August 17, 1921.*

SIR: I have the honor to acknowledge the receipt of your Department's memorandum of the 11th instant,^{71a} which gives the text of the invitation of the President of the United States transmitted

^{71a} Not printed; see telegram no. 225, Aug. 11, to the Chargé in China, p. 57.

to the Government of the Republic of China on that date through the American Legation at Peking.

I am instructed by my Government in a cablegram dated August 16, 1921, to communicate to you the following reply:

"On the 13th instant a note was received from the American Chargé d'Affaires at Peking transmitting the invitation of the President of the United States to the Government of the Republic of China to participate in a conference to be held in Washington on the 11th day of November, 1921.

"A conference for the purpose stated meets with the hearty concurrence of the Government of the Republic of China. Since the conclusion of the War in Europe the fear is general that there may again be a recurrence of the horrors of war. Furthermore, the center of gravity in matters international has recently shifted to the Pacific and the Far East. China occupies an important place not only on account of the extent of its territory and the density of its population but also on account of its geographical position. The Pacific and Far Eastern questions as viewed by the Chinese people are questions affecting the peace of the world of the present day.

"This Conference at Washington, called by the President of the United States for the promotion of peace, cannot but contribute in a large measure to the accomplishment of results that will enable the people of the world to enjoy prosperity and happiness and obtain permanent release from the calamities of war. It is with special satisfaction that the Government of the Republic of China makes known its desire to cooperate on a footing of equality with other governments in this beneficent movement.

"The American Government by declaring that it is not its purpose to attempt to define the scope of the discussion in relation to the Pacific and Far East gives evidence of its readiness to be fair to all without any preconceived bias. The Government of the Republic of China desires to take the same position, and will participate in the Conference in the spirit of friendship and with a cordial appreciation of the importance of the elimination of the sources of controversy as stated in the American Chargé's note and observe perfect frankness and cordiality in the exchange of views and in arriving at decisions to the end that the purpose of the President of the United States to promote universal peace may be fulfilled."

Accept [etc.]

SAO-KE ALFRED SZE

500.A4002/1a : Telegram

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

[Paraphrase]

WASHINGTON, August 23, 1921—2 p.m.

497. As the British Government has formally accepted, Department desires that you immediately sound the Foreign Office regarding the number of its commission. Presumably British Government will desire to include Dominion representatives and of course this would be very acceptable to the United States. President Harding

is being urged to appoint a woman and a labor representative, but he is not now inclined to appoint representatives of any particular organization or class. We do not desire to attempt to impose restrictions upon representation of other Governments but we consider that the Governments will desire a substantial equality of representation and with this in view it would be desirable to limit each commission to five or six. We assume that in the case of the British Government six would give full opportunity for Dominion representation, which the United States does not desire to make difficult.

We believe that it would be better for each governmental commission to be composed of civilians and that Army and Navy representatives could well serve in an advisory capacity. To meet demands of organizations and to supply dignified positions without permitting direct participation in the Conference by membership on the governmental commission, it has been considered desirable to have an advisory, expert, or technical delegation to assist the real commission and that on this associate delegation would be representatives of the Army and Navy, finance, labor, women, etc. This would give complete expert assistance and yet would create a special body of dignity. Appointments could be made to it without making the appointees members of commission to sit in Conference. President Harding has already selected as members of the American Commission the Secretary of State and Senator Lodge and the others probably will be men who are prominent publicists including possibly some other Senator or Senators.

Ascertain confidentially and informally as soon as possible British Government's views regarding (1) the number of commissioners; (2) exclusion or inclusion of Army and Navy representatives on the commission; and (3) appointment of associate or expert advisory delegation as above suggested.

HUGHES

500.A4/153 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, August 23, 1921—7 p.m.

[Received August 24—5:08 a.m.]

279. My 274, August 13, 4 p.m.,⁷² your 132, August 11, 1 p.m.⁷³ I have just received following dated today from Minister for Foreign Affairs.

“Monsieur le Chargé d’Affaires: I have the honor to acknowledge the receipt of your note of the 13th of this month in which you intimate the gratification of the President of the United States at the

⁷² Not printed.

⁷³ See footnote 71, p. 56.

cordial response which has been accorded to his suggestion of a conference on the subject of limitation of armament and cognate topics and in which you communicate the President's invitation to this Government to participate in such a conference to be held in Washington on the 11th of November next on the subject of limitation of armament in connection with which Pacific and Far Eastern questions will also be discussed.

In communicating to you for transmission to the President the hearty and appreciative acceptance of this invitation by the Japanese Government, I would ask you to be good enough in the first place to say to Mr. Harding with what pleasure the Government see him take the initiative in this all-important matter; his great office, the pacific traditions of your Republic, and his own high personal qualifications invest his act with a peculiar appropriateness, which must be universally felt and recognized.

The peace and welfare of the world have long been a chronic object of solicitude to the Japanese Government and people. That attitude has not remained a platonic policy—it has been followed out in action. It results naturally from this pacific attitude towards world problems, that Government and people alike should warmly welcome the idea of the limitation of armaments and the removal of the deadening burden on industry and cultural development which swollen and competitive armaments create.

This Government is also completely sympathetic to the valuable suggestion advanced in your note, that it may well be desirable that the use of novel agencies of warfare should be controlled.

The discussion and removal of any causes of misunderstanding which may exist, and the arrival at an eventual agreement with regard to general principles and their application which will ensure friendship and good mutual understanding between the nations, are regarded as of great value and importance. My Government would emphasize the preeminently vital interest which Japan has in the preservation of the peace of the Pacific and the Far East. She has devoted her utmost efforts towards securing its permanence and its maintenance might well be to her a matter of prime concern. She therefore finds it accords entirely with her inmost desires, to reach in conference a measure of understanding which shall ensure peace being placed once for all upon permanent basis in these regions. It is earnestly hoped, therefore, in Japan, that the conference will secure really useful results and prove a practical success.

The Japanese Government gladly concur in the proposal of the United States Government, that the scope of the discussion of Pacific and Far Eastern problems shall be made the subjects for a free exchange of views prior to the assembly of the conference. They hope that the agenda of the conference will in this way be arranged in harmony with the suggestion made in the memorandum of the Japanese Ministry of Foreign Affairs of July 26, 1921,⁷⁴ bearing on the same subject, in order that the labors of the conference may meet speedily with the fullest measure of successful achievement.

The undersigned cannot conclude without again expressing the thorough and hearty sympathy of his Government with the thesis,

⁷⁴ See telegram no. 255, July 26, from the Chargé in Japan, p. 43.

so clearly and justly stated in your note, of the crushing encumbrance and menace which modern armaments present to civilization. No efforts can be too unremitting to reduce that menace and encumbrance. In the full consciousness of this fact, the initiative of the President of the United States is warmly welcomed and deeply appreciated, and I would ask you so to assure the President.

I beg you, etc.

Signed Count Yasuya Uchida."

BELL

500.A4002/2 : Telegram

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

[Paraphrase]

LONDON, August 26, 1921—9 p.m.

[Received August 27—12:29 p.m.⁷⁵]

705. Had a long and most friendly talk yesterday with Curzon. Found him readily responsive and desirous of helping in any possible way. As result of experience in testing methods he was satisfied that the Supreme Council's present procedure is by far the most effective ever devised. Therefore he would strongly recommend that official representation of each country in actual membership of Conference be limited to two or at most three. This makes possible easy conversation of 12 to 20 authorized delegates sitting at horse-shoe table. Behind each delegation would be their respective advisers and experts selected for their proficiency and knowledge on specific topics but having no voice in proceedings except when asked by official delegates of their country to supply desired information or to elucidate a problem. These counsellors and advisers would not necessarily be same at all sessions, purpose being to keep number in room at lowest minimum compatible with efficiency. At times also the second or third official delegate would yield to one of these counsellors as for instance the head of a department like navy, war, or treasury who then would participate in round-table discussion. He would not, however, take part in making a decision. This prerogative would be reserved to the chief authorized delegates who in practice invariably agree respecting the attitude of their respective Governments. This method without doubt is advantageous in eliminating temptation of individuals to make speeches, brings about a friendly atmosphere and a ready interchange of views. The delegates themselves almost invariably remain seated and talk without the slightest formality. Curzon disclaimed any desire to unduly

⁷⁵ Telegram in three sections.

urge his recommendation upon your judgment as any plan you propose would be entirely acceptable to him so far as his Government was concerned. He considered that two or at the outside three authorized delegates would be sufficient in any event regardless of size of the other delegations.

Although Curzon did not positively say so I gather that he expects that Lloyd George and himself will thus represent the British Empire, depending upon status of Irish situation at the time. The question of representation of the Dominions did not arise. They consider that a family affair and feel quite competent and authorized to speak for the whole Empire. Whether they should have representatives of the Dominions among their advisers they would regard, as I have been made from time to time aware of their attitude, as a question for their own arrangement. In fact they are so sensitive upon this point that I feel sure Curzon would have been disposed to resent a suggestion from me along this line. Consequently I considered it inadvisable to raise the point. I did, however, present your tentative suggestion of five to six delegates to avoid possibility of future criticism from Dominions that might be based upon assumption that they were barred out of adequate participation through any plan or act of yours. Confidentially I feel satisfied that Curzon and Lloyd George do not care to have Dominions directly represented by their own delegates upon same plane of authority as themselves. I also feel convinced that neither Premier Massey nor Premier Hughes, both of whom will probably be unable to attend, desires to have anyone but himself appear as having authority to speak for his Government.

Respecting procedure I may say that to me Supreme Council method was a revelation as a marvel of efficiency through easy, unrestricted conversation. By examining copy of British minutes which I sent you immediately after the meeting you can obtain a very clear idea of the practice.⁷⁶ There are, however, some minor phases which may not be obvious. If you should so find and desire more detailed information regarding actual practice I can supply it readily by mail or telegraph. It is really quite an extraordinary development and you may desire to consider advisability of simply notifying the various powers that the Conference would follow Supreme Council method unless objection should be made. I feel sure this would be entirely satisfactory to all of them.

Curzon tells me he has been notified officially that delegations invited would be required pay their own expenses and make their own arrangements. Whether or not this is correct the matter is very important. Please inform me whether same notice was given

⁷⁶ Not printed.

all the other Governments and is subject to modification or irrevocable. I desire quick response to this query with a view to giving you suggestions designed to avert possible menace to success of Conference.

HARVEY

500.A4002/2 : Telegram

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

[Paraphrase]

WASHINGTON, August 29, 1921—2 p.m.

511. Referring to your 705 of August 26. Have not yet received Supreme Council minutes but appreciate fully advantages of procedure you describe. Prefer the more informal and direct intercourse which is made possible by small delegations. We desire as far as possible to meet British wishes in this matter. It is considered important, however, that idea should not get abroad that we have limited size of delegation and thus made impracticable Dominions' representation. Our willingness to have larger delegations should accordingly be apparent.

In fixing the number it is necessary to have regard to personnel. The President has announced the appointment of the Secretary of State and Senator Lodge and in order to enable him to make other highly advisable appointments we do not see how the number of authorized delegates can be less than four. We desire to have Root on delegation and also a representative of the Senate minority, or would desire Knox if latter refuses representation. These names are not to be communicated to the Foreign Office and for the present they are to be kept strictly confidential. If Curzon approves we are ready to agree on four as the number of authorized delegates. It is unnecessary to agree on the number of expert advisers, which may be as large as any Government desires.

HUGHES

500.A4002/4 : Telegram

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

[Paraphrase]

LONDON, September 2, 1921—5 p.m.

[Received September 2—2:43 p.m.]

721. Curzon is away for a 6-weeks vacation. The queries in your 511 of August 29 appear to be covered in interview reported in my 705 of August 26. He indicated clearly that any number of dele-

gates you suggest would be acceptable which beyond a doubt includes four. I made it very clear that five or six would be acceptable to you. Curzon thus had full opportunity, if he desired, to provide for Dominion representation. I do not see how your position on that point could be safeguarded more thoroughly. Briefly I see no reason why you cannot proceed as per your 511 with British Government's assured acquiescence.

HARVEY

500.A4002/4 : Telegram

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

[Paraphrase]

WASHINGTON, *September 3, 1921—noon.*

523. Your 721 of September 2. Will assume that there will be four delegates. Would it be possible, in Curzon's absence, to obtain authoritative suggestions regarding agenda? The Japanese Government expects that the question will be considered shortly as they desire definitely to know the scope of the agenda by September 15, as their delegation must leave by October 1. I had intended soon to make informal suggestions and desire, if practicable, to be able to obtain British Government's views.

HUGHES

500.A41/2a : Circular telegram

The Secretary of State to the Diplomatic Representatives in France, Great Britain, Italy, and Japan

[Paraphrase]

WASHINGTON, *September 3, 1921—6 p.m.*

Conference on Limitation of Armament. After President Harding had issued invitations to the Conference, representatives of Belgium and the Netherlands made representations to the Department requesting that they also should be invited. It was explained that under the circumstances the President had considered it best to limit to the four Principal Allied Powers invitations to Conference on Limitation of Armaments (China having been invited to take part only in the discussion concerning Far Eastern affairs) but that because of their interest in the matter, their inclusion in discussions concerning Pacific and Far Eastern problems would be taken up with four Principal Allied Powers after they had accepted invitation.

The President accordingly would now be pleased to invite the Belgian and Netherland Governments to the Conference for the

purpose only of taking part in discussion of Pacific and Far Eastern problems if the Government to which you are accredited has no objection. Please inquire and send results by cable as soon as possible.

HUGHES

500.A41a/5a : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Harvey)*⁷⁷

WASHINGTON, September 10, 1921—3 p.m.

531. Limitation of Armament Conference.

Please inform Foreign Office that this Government desires to make the following tentative suggestions as to agenda for Conference.

Limitation of Armament.

1. Limitation of Naval Armament, under which shall be discussed
 - (a) Basis of limitation
 - (b) Extent
 - (c) Fulfillment.
2. Rules for control of new agencies of warfare.
3. Limitation of land armament.

Pacific and Far Eastern Questions.

1. Questions relating to China.
 - First: Principles to be applied.
 - Second: Application.
 - Subjects: (a) Territorial integrity.
 - (b) Administrative integrity.
 - (c) Open door,—equality of commercial and industrial opportunity.
 - (d) Concessions, monopolies or preferential economic privileges.
 - (e) Development of railways, including plans relating to Chinese Eastern Railway.
 - (f) Preferential railroad rates.
 - (g) Status of existing commitments.
2. Siberia.
 - (similar headings)
3. Mandated Islands.
 - (unless questions earlier settled)

Under the heading of "Status of Existing Commitments" it is expected that opportunity will be afforded to consider and to reach an understanding with respect to unsettled questions involving the

⁷⁷ See last paragraph for instructions to repeat to Paris (no. 417) and Rome (no. 151). The same telegram to Tokyo (no. 151) without instructions to repeat (file no. 500.A41a/2a).

nature and scope of commitments under which claims of rights may hereafter be asserted.

These suggestions will be communicated to all the Powers invited to the Conference.

Repeat to Paris as Department's 417 and Rome as Department's 151.

HUGHES

500.A41a/3a : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, September 10, 1921—3 p.m.

254. Limitation of Armament Conference.

Please inform Foreign Office that this Government desires to make the following tentative suggestions as to agenda for Conference in connection with Pacific and Far Eastern questions:

[Here follow tentative suggestions as to agenda for Pacific and Far Eastern questions contained in telegram no. 531, September 10, to the Ambassador in Great Britain, printed *supra*.]

HUGHES

500.A41a/3 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, September 12, 1921—6 p.m.

[Received September 12—9:58 a.m.]

293. Your 151, September 10, 3 p.m.⁷⁸ Foreign Office inquire what is meant by phrase "Status of Existing Commitments".

BELL

500.A41a/3 : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, September 12, 1921—5 p.m.

152. Your 293, September 12, 6 p.m.

In supplement to the comment contained in my telegram as to the meaning to be given to the heading "Status of Existing Commitments", you should explain to the Minister for Foreign Affairs that I have in mind to introduce into the discussion of Far Eastern Affairs a frank and friendly interchange of information and views as to all commitments which might now or hereafter be invoked in relation to the Far Eastern policies of the several Powers and to the

⁷⁸ See footnote 77, p. 67.

particular applications thereof; and to seek such an understanding as to the nature and effect of these commitments as would in future obviate any controversy which might arise through any misconception of the positions of the several Powers.

HUGHES

500.A41a/12

The French Chargé (Béarn) to the Secretary of State

[Translation]

WASHINGTON, September 16, 1921.

MR. SECRETARY OF STATE: The memorandum⁷⁹ delivered to the Government of the Republic concerning the draft of the program of the Conference for the Limitation of Armament includes in paragraph 2 of the part relative to the limitation of armaments the following:

“ rules for control of new agencies of warfare ”.

On the other hand it concludes with the following:

“ the Government of the United States expects also that opportunity will be afforded to consider and to reach an understanding with respect to the unsettled questions involving the nature and scope of commitments under which claims of rights may hereafter be asserted ”.

My Government directs me to ask your Excellency kindly to state precisely the meaning and scope of those two sentences which it has found impossible accurately to translate.

Accept [etc.]

BÉARN

500.A4/172 : Telegram

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

WASHINGTON, September 17, 1921—5 p.m.

545. Following press announcement being made here. Advise Paris, Constantinople and Riga.

“ The American Legation at Peking received recently from an agent of the so-called Far Eastern Republic a request that representatives thereof should be admitted to the approaching conference on limitation of armament, at which questions affecting the Far East will also be discussed.⁸⁰ It was said in this communication that the so-called Far Eastern Republic would not, unless it were repre-

⁷⁹ See footnote 77, p. 67.

⁸⁰ The request referred to was transmitted to the Secretary of State by telegram no. 321, Sept. 10, from the Chargé in China; not printed.

sented, accept decisions of the conference touching its interests and would oppose in every manner any violation of its sovereign rights.

As the so-called Far Eastern Republic has not been recognized by the Government of the United States, or by the other governments of the world, no formal reply has been made to this communication, but the American Minister at Peking has been instructed to convey to the agent of the Far Eastern Republic informal observations in the following sense:

In the absence of a single, recognized Russian Government the protection of legitimate Russian interests must devolve as a moral trusteeship upon the whole Conference. It is regrettable that the Conference, for reasons quite beyond the control of the participating powers, is to be deprived of the advantage of Russian cooperation in its deliberations, but it is not to be conceived that the Conference will take decisions prejudicial to legitimate Russian interests or which would in any manner violate Russian rights. It is the hope and expectation of the Government of the United States that the Conference will establish general principles of international action which will deserve and have the support of the people of Eastern Siberia and of all Russia by reason of their justice and efficacy in the settlement of outstanding difficulties.["]

HUGHES

500.A41a/12 : Telegram

The Secretary of State to the French Chargé (Béarn)

WASHINGTON, September 20, 1921.

SIR: I have the honor to acknowledge the receipt of your Note of September 16, 1921, in which you request elucidation of two phrases in the Memorandum forwarded to your Government relative to the agenda of the forthcoming Conference on the Limitation of Armament.

With regard to the phrase in the second paragraph of the part of the agenda concerning the limitation of armament, "Rules for Control of New Agencies of Warfare", I may say that this Government had in mind the discussion of the advisability of formulating rules for the control of new agencies of warfare; as, for example, the use of gas, aircraft and submarines.

With regard to your inquiry concerning the meaning and significance of the concluding paragraph of the Memorandum, which had been intended to clarify the purport of the heading, "Status of Existing Commitments", I am happy to advise you that this paragraph had reference to the desire of this Government to introduce into the discussion of Far Eastern affairs a frank and friendly interchange of information and views as to all commitments which might now or hereafter be invoked in relation to the Far Eastern policies of the several Powers and to the particular applications thereof, with a

view to seeking such an understanding as to the nature and effect of these commitments as would in future obviate any controversy which might arise through any misconception of the positions of the several Powers.

Accept [etc.]

CHARLES E. HUGHES

500.A4/190½

Memorandum by the Secretary of State of a Conversation with the British Ambassador (Geddes), September 20, 1921

The Ambassador called by appointment, made at his request.

The Ambassador said he had been instructed by his Government to say that Mr. Lloyd George would be unable to attend the Conference; that Mr. Lloyd George wished to express his deep regret that he could not do so but that the situation in Great Britain was such that he could not be away for the length of time necessary even to attend the Conference for a part of its session; that even if the Irish question was settled there were other matters which would make it impossible for him to leave. The Ambassador added that Mr. Lloyd George was not well and did not feel that he could take the additional burden of the Conference.

The Secretary expressed his regret that Mr. Lloyd George could not come and remarked that the Prime Minister probably did not realize the warmth of the welcome that he would receive and that the Secretary thought that his presence here would do much more toward cementing British-American relations than any number of discussions; that the American people would be very glad to greet the only Prime Minister who had officially survived the War. The Ambassador said that he felt this was very true and that he had urged Mr. Lloyd George to come and still hoped that he might be able to come for a part of the Conference.

The Ambassador said that he was also instructed to say that the British would probably desire to send five or six delegates; that this would be necessary to give the Dominions the representation; they felt it also desirable to have India represented and that he would advise the Secretary further as soon as he had further information upon this point.

The Secretary said that the number had been fixed at four with a desire to meet the British point of view; that we had been advised that Lord Curzon wanted two or three; that it was impossible for this Government, in order to give the Senate proper representation, to have less than four, and that we had held the number down to this point solely because of the British suggestion. The Secretary said, further, that this had been announced because it was thought, after

communication with Ambassador Harvey, that this course was satisfactory to the British Government, but that of course this Government would be very glad to have as large a delegation as Great Britain wished to send and was particularly glad to know that the Dominions would be represented.

The Ambassador said that he had several questions from his Government which he thought he could answer himself but he would bring some of them up. He then referred to the topic on the Agenda—"Rules for the Control of New Agencies of Warfare", and inquired as to what was intended. The Secretary said that it referred especially to the use of gas, aircraft and submarines. The Ambassador said that he thought it quite important that the subject should be discussed but doubted whether it was practicable to frame any rules which would govern the matter. The Secretary said that he appreciated the difficulty and was not prepared to say that it would be advisable to frame such rules; that it was quite possible that if the Conference desired to take up the matter, it might wish to appoint an expert commission to consider the matter and report either to the several governments or at a later conference, but that it was deemed to be wise where we were meeting in conference that this subject should not be excluded from the agenda, in order that there might be a general discussion of it if the representatives of the Powers desired to undertake such a discussion. The Ambassador agreed that this was advisable.

The Ambassador inquired with regard to the order of procedure. He said he understood that the procedure to be adopted was that of the Supreme Council. The Secretary said that this was true but it would be necessarily modified by the fact that the Supreme Council had been more or less continuous in its activity and that it met from time to time to discuss particular subjects which were prepared in advance by the expert advisers of the governments; that in this way they came to a meeting of the Council more definitely prepared than would be possible in connection with the coming Conference, which was meeting for the first time. The Secretary said that for this reason he thought it might be found advisable to appoint committees who would consider the various questions and make reports to the Conference. The Ambassador asked whether it was intended to take up the subject of limitation of armament before the Pacific and Far Eastern problems. He said that he thought it would be impossible to deal with the limitation of naval armament at all until the Pacific problems had been considered and an understanding reached.

The Secretary said that he fully appreciated the importance of reaching an understanding as to Pacific and Far Eastern problems,

but he thought that instead of evoking the criticism that might attach to an indefinite postponement of the question of limitation of armament, a committee might be created which could be considering all the technical and expert questions involved while the matter of Pacific and Far Eastern problems was under consideration, so that when an opportune time was reached the material would be ready for submission to the Conference. The Secretary said he did not think that it was necessary technically to postpone all the work upon a given subject until another subject had been completed.

The Secretary also pointed out that there would be collateral opportunities in connection with the Conference for meetings of all the representatives of the various Powers in an informal way. This would give the opportunity for some of the representatives of Great Britain and Japan and the United States to discuss the questions quite informally and apart from the regular meetings of the Conference; that this would have all the advantages that the British sought to have in a preliminary conference, and if it was possible for the governments to reach a common understanding they could do it quite as well in that way as at any other time.

The Ambassador said that he had been instructed by his Government to say that they were satisfied with the proposed agenda save that they desired to add the subject of the Panama Canal tolls.

The Secretary said that he did not think it advisable that this subject should be brought into the Conference; that in his opinion it was a matter to be dealt with diplomatically between the Governments of Great Britain and the United States.

The Ambassador said that it was the view of his Government that it was a question not alone between Great Britain and the United States but affecting other governments and so would appropriately be brought into the Conference.

The Secretary said that his Government approached the Conference in a complete spirit of friendship and the utmost desire to see if subjects of controversy could be removed; that in this view it was necessary, however, that the Powers should deal at this time with the subjects that were presented in the Far East. The Secretary referred to the Anglo-Japanese Alliance and the way in which it was regarded in this country. The Secretary said that the time had come when the constant sentiments and cordial expressions which were made at dinners and on various occasions with respect to the friendly cooperation of the two Governments should be translated into something definite; . . .

The Ambassador asked whether progress had been made in connection with Yap sufficient to enable a public statement to be made.

The Secretary said that the matter was in the course of negotiations; that a settlement had not been reached; that there had been a virtual agreement on many points and he hoped the matter would soon be concluded and he would be in a position to make a statement regarding it.

The Ambassador asked whether the Secretary thought the Treaty with Germany made it necessary to have any treaty between the United States and the other Powers. The Secretary said that he did not think so, except with respect to the mandated territories; that in other matters the United States, through its Treaty with Germany, was put on the same basis as the other Powers, and that he assumed that none of the other Powers would have any objection to its taking this view. The Ambassador intimated that there was no objection so far as Great Britain was concerned. The Secretary said that with respect to mandated countries there were certain rights possessed by the United States and that the question of title could not be cleared up except by a suitable convention between the United States and the other Principal Allied and Associated Powers to whom Germany had ceded her former possessions. The Secretary said he had made suggestions as to the provisions of mandates and his thought was that after these had been threshed out a convention could be entered into by which the United States would receive the benefit of the engagements of the other Powers with respect to the mandated possessions and to have equal privileges and open-door opportunities which had been referred to in the Secretary's Note.

500.A4/191½

Memorandum by the Secretary of State of a Conversation with the Portuguese Minister (Alte), September 22, 1921

The Minister said he had been instructed by his Government to inquire whether it would be possible to have Portugal represented at the Conference in connection with Pacific and Far Eastern questions. He said that Portugal and the Netherlands had actual settlements in the East and that if the Netherlands were to have an opportunity to take part in the discussion, Portugal should likewise.

The Secretary stated the actual situation with respect to the overtures that had been made to other governments relating to the participation of Belgium and Holland and said that he would be glad to take the matter up in order that Portugal should also have an opportunity to take part in the discussion of Pacific and Far Eastern questions.

The Secretary said that it was the desire to limit the number of delegates as far as possible, in the interest of the effective working of the Conference. The Secretary referred to the fact that the British delegation might be enlarged from the four which this Government had contemplated, but that it was not necessary for every government to be represented by the same number.

The Portuguese Minister said he thought two would be enough for Portugal, and that he would make that suggestion to his Government.

500.A4/202a : Circular telegram

The Secretary of State to the Diplomatic Representatives in France, Great Britain, Italy, and Japan

[Paraphrase]

WASHINGTON, *September 27, 1921—4 p.m.*

Conference on Limitation of Armament. Department's circular of September 3.⁸¹ President Harding for same reasons expressed therein in case of Belgium and Holland desires now to invite the Portuguese Government to Conference for purpose only of taking part in discussion of Pacific and Far Eastern problems, if the Government to which you are accredited has no objection. Please inquire and cable reply as soon as possible.

HUGHES

500.A41a/20b : Telegram

*The Secretary of State to the Ambassador in Great Britain (Harvey)*⁸²

[Paraphrase]

WASHINGTON, *September 28, 1921—1 p.m.*

566. Conference on Limitation of Armament. My 531, September 10, 3 p.m. Inform Foreign Office that Government of United States desires to make following suggestion regarding agenda: Under topic 3 of Pacific and Far Eastern questions, viz., Mandated Islands, to include as Subject A, "Electrical Communications in the Pacific."

Repeat to Rome as no. 157 and Paris as no. 441.

HUGHES

⁸¹ *Ante*, p. 66.

⁸² See last paragraph for instructions to repeat to Rome (no. 157) and Paris (no. 441). The same telegram, *mutatis mutandis*, to Tokyo (no. 166) with instructions to repeat to Peking as Department's no. 266 (file no. 500.A41a/20a).

500.A4/219a : Telegram

*The Secretary of State to the Minister in the Netherlands (Phillips)*⁸⁸

WASHINGTON, October 4, 1921—3 p.m.

55. Limitation of Armament Conference.

You will immediately address the following note to the Minister for Foreign Affairs:

“Acting under telegraphic instructions from my Government I have the honor to inform your Excellency that the invitation of the President of the United States to the Governments of France, Great Britain, Italy and Japan to send representatives to a Conference to be held in the City of Washington on November 11, 1921, on the subject of Limitation of Armaments, in connection with which Pacific and Far Eastern questions will also be discussed, has been graciously accepted. The Government of China has also been pleased to accept the President’s invitation to participate in the discussion of Pacific and Far Eastern questions.

It is the earnest wish of this Government that with the facilities afforded by a Conference it may be possible to find a solution of Pacific and Far Eastern problems, by a practical effort to reach such common understandings with respect to matters which have been and are of international concern as may serve to promote enduring friendship.

In view of the interest of the Netherlands in the Far East, the President desires to invite your Excellency’s Government to participate in the discussion of Pacific and Far Eastern questions at the Conference, and I have the honor to enclose herewith the tentative suggestions as to the agenda of the Conference, relating to Pacific and Far Eastern questions, proposed by the Government of the United States”.

Agenda as follows:

“*Pacific and Far Eastern Questions.*

1. Questions relating to China.

First: Principles to be applied.

Second: Application.

- Subjects: (a) Territorial integrity
 (b) Administrative integrity
 (c) Open door,—equality of commercial and industrial opportunity.
 (d) Concessions, monopolies or preferential economic privileges.
 (e) Development of railways, including plans relating to Chinese Eastern Railway.
 (f) Preferential railroad rates.
 (g) Status of existing commitments

2. Siberia.

(similar headings)

3. Mandated Islands.

Subject: (a) Electrical Communications in the Pacific.

⁸⁸ See last paragraph for instructions to repeat to Brussels and Lisbon.

Under the heading of 'Status of Existing Commitments' it is expected that opportunity will be afforded to consider and to reach an understanding with respect to unsettled questions involving the nature and scope of commitments under which claims of rights may hereafter be asserted."

Repeat *mutatis mutandis* Brussels as No. 42 Lisbon 25.

HUGHES

500.A41a/35 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

[Paraphrase]

TOKYO, October 14, 1921—3 p.m.

[Received October 14—9:54 a.m.]

347. Admiral Baron Kato, one of the delegates, during a conversation yesterday in his office in Navy Department showed me that he was charged with responsibility respecting other questions beside the limitation of armaments and that although now he was not familiar with all details of these questions he was conversant with the general outlines of them. He told me he considered the most vital question limitation of armaments but the delegates were prepared first to discuss Pacific and Far Eastern questions if so desired. He said the Japanese Government fully understood the point of view of the American Government in suggesting proposals concerning the agenda and that as the Diplomatic Advisory Council had so agreed on October 12, an instruction should now be on the way to Shidehara to inform the United States that the Japanese Foreign Office had no objection to the agenda proposed. He stated, however, that the delegates upon their arrival in Washington would ask for an explanation of specific points regarding which they desired information. They would then be better able to decide what points Japan would present for discussion and what points would not be presented. He said he presumed that I should receive this information from the Foreign Minister but he could see no objection to telling me as the Government had reached a definite decision to this effect.

I also had a long talk with Prince Tokugawa and previously had conversed at length with both delegates. I will cable a summary of these talks after the delegates leave October 15, as I might have something to add.

WARREN

500.A41a/40

The Japanese Embassy to the Department of State

MEMORANDUM

The Japanese Government are happy to accept in principle the tentative suggestions, respecting the agenda for the forthcoming Washington Conference, contained in the Memorandum of the Department of State dated September 10, 1921,⁸⁴ it being understood that, according to the developments of the Conference, Japan may submit new questions touching the general situation in the Pacific and Far Eastern regions.

The Japanese Government understand that the discussion on Pacific and Far Eastern problems in connection with the limitation of armament is primarily intended for the purpose of finding common understandings which are to guide the future actions and policies of the respective Governments on those problems.

WASHINGTON, *October 17, 1921.*

500.A41a/40

The Department of State to the Japanese Embassy

MEMORANDUM

In acknowledging the memorandum of October 17 in which the Japanese Embassy accepts in principle the tentative suggestions respecting the agenda for the forthcoming Washington Conference as contained in the Department's memorandum of September 10 last, the Government of the United States is happy to confirm the understanding that new questions touching the general situation in the Pacific and Far Eastern regions may be submitted according to the developments of the Conference. It is of course assumed that in the event of such introduction of new questions, such notice would be given in advance as would enable the several Delegations to make adequate preparation for the discussion thereof.

With reference to the Japanese Government's understanding concerning the purpose of the discussion of Pacific and Far Eastern matters, it may be said that it is likewise the hope of this Government that the consideration of these problems may lead to common understandings which shall resolve unsettled questions and afford a guide for the future actions and policies of the several Governments.

WASHINGTON, *October 18, 1921.*

⁸⁴ The memorandum of Sept. 10 (not printed) contained tentative suggestions regarding the Conference agenda as set forth in telegram no. 531, Sept. 10, to the Ambassador in Great Britain, p. 67.

500.A41a/168

*The Chinese Ministry of Foreign Affairs to the Chinese Legation
at Washington*⁸⁵

[PEKING,] *October 19, 1921.*

SUGGESTIONS OF REVISED AND TENTATIVE AGENDA: PACIFIC AND
FAR EASTERN QUESTIONS

1. Far East in General:

1st Principles to be applied.*2nd* Application:

- a* Treaties and agreements entered into by the participants in the Conference with regard to the Far East.
- b* Declarations to be made by the participants for the mutual respect of sovereignty and territory.
- c* Removal of the barriers to the peace of the Far East.
- d* Periodical conferences to discuss important international questions in the Far East.

2. Questions relating to China:

1st Principles to be applied.*2nd* Application:

- a* Administrative integrity.
- b* Tariff autonomy.
- c* Open Door: Equality of commercial and industrial opportunity.
- d* Concessions, monopolies or preferential economic privileges.
- e* Development of railways and equality of treatment in railways.
- f* Status of existing commitments.

3. Siberia:

Headings same as originally intended by U.S. Government.

4. Mandated Islands:

(Unless questions earlier settled)

- a* Electrical communications in the Pacific.

500.A41a/43 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

[Paraphrase]

TOKYO, *October 21, 1921—11 a.m.*

[Received 5:30 p.m.]

354. Referring my 347, October 14. Admiral Baron Kato referred to local press statements that since he was an Admiral and Minister of the Navy he would oppose limiting the strength of the

⁸⁵ A memorandum of Oct. 25 by the Chief of the Division of Far Eastern Affairs states: "Mr. Alfred Sze, Chinese Minister, this afternoon left with me the attached translation of a telegram, dated October 19, from the Chinese Ministry for Foreign Affairs."

Japanese Navy. He said that he was not a militarist and hoped that I would make this point clear to my Government. He knew that the Japanese people eagerly desired to limit armaments in order to lighten the taxation burden. Baron Kato felt qualified for the task ahead of him as he is familiar with the Navy's needs and is also anxious to meet the aspirations of the people. He added that he had stated publicly last March that he did not regard the 8 battleship-8 battle cruiser standard as the absolute minimum necessary to Japan's self-defense. His position on this question was unchanged. He dwelt upon the fact that Japan could not alone reduce armament but stated that he proposed to exert every effort to persuade the other powers to reduce their armament. He stated that it was easy for statesmen to discuss proportionate limitation but difficult for technical experts to agree upon a basis for unification [*limitation?*]. He thought, however, if America, Great Britain, and Japan reached an agreement among themselves it could be carried through. He said he had been a Minister of State for almost 14 years, being the oldest Cabinet member in point of service. He asserted with much emphasis that he was going to the Conference as a statesman and expected to center his activities in the Conference on matters of policy leaving in the hands of naval advisers technical details regarding naval affairs. However, he did not intend to permit the Navy's young men to stand in the way of reaching a limitation of armament agreement. More than once he dwelt upon the fact that he was charged with responsibility respecting other questions in addition to limitation of armament and is willing to first discuss Pacific and Far Eastern questions in the hope of reaching an agreement that would make possible provision for national defense by means of a force smaller than the 8-8 standard.

I have discussed the Conference in some rather long conversations with Prince Tokugawa at the Embassy and at his home. I have concluded that he is going to the Conference desiring earnestly to reach an agreement on Far Eastern problems which will lead to limitation of armament. He will be very friendly toward delegates of other Governments and can be persuaded to keep with his delegation in furthering a fair understanding. . . . The delegation will regard Baron Kato as the leader and his opinion will be the most influential with the Premier and with other political factors in Japan which will be consulted.

I also had a long talk with Hanihara⁸⁶ who told me confidentially that the Premier had told him to be ready to accept a place on the Japanese delegation if it should be enlarged. Hani-

⁸⁶ Masanao Hanihara, Japanese Vice Minister of Foreign Affairs.

hara thought Pacific and Far Eastern questions should be discussed broadly first to establish the understanding that no nation was seeking territorial expansion in the Far East by force. He thought the Conference should then consider the question of arriving at some basis for limitation of armaments to satisfy the public that progress was really being made respecting the question uppermost in the thoughts of people of all nations. He believed the Conference could then consider the detailed discussion of Pacific and Far Eastern questions regarding which he expected differences and some heated discussions. I told Hanihara as I have told others here that Japan's policy in sending along its system of administration and a military force when it expanded commercially was directly opposed to the principle of equal opportunity for commerce of all countries and did not meet with approval of other countries. He applied the statement to Siberia and said Japan sought no territorial grant or exclusive timber or mining rights but desired only a trade agreement and some opportunity to tell the Japanese people that a *de facto* government existed in order to withdraw the military force. Hanihara will be very influential in the delegation on matters of procedure and on details of Far Eastern questions.

WARREN

500.A4/253½

Memorandum by the Secretary of State of a Conversation with the Italian Ambassador (Ricci) and the Counselor of the Italian Embassy (Sabetta), November 3, 1921

The Counselor acted as interpreter.

The Ambassador said that he wished to express the deep interest of his Government in the work of the Conference and to assure the American Government that Italy desired to support the American views and policy in the Conference. The Italian Ambassador stated that he wished the Secretary to understand that if at any time the Secretary would communicate to him what he desired, he would be very glad to give his support. The Ambassador said further that whenever the Secretary saw on the part of any member of the Italian Delegation, any variance from the support of the United States, or anything which he felt was not in harmony with full cooperation, he would appreciate it if the Secretary would inform the Ambassador personally and that he would immediately attend to the matter, as he had full instructions from his Government to see that the Delegation supported the American position.

The Ambassador said that he would like to have an interview with the Secretary in the near future in order that he might go over with him the proposed work of the Conference.

The Secretary expressed his appreciation of the cordiality of the suggestions that had been made, and said that he would be very glad to talk with the Ambassador from time to time so far as it was practicable in the course of the development of the work of the Conference.

500.A4/258½

Memorandum by the Secretary of State of a Conversation with the Chinese Minister (Sze), November 5, 1921

The Chinese Minister said that he had not had an opportunity at the last interview to speak fully with regard to the agenda for the Conference; that he desired to say as a personal word that he had endeavored to persuade his Government to accept the agenda as proposed; that he had deferred taking the matter up fully with the Secretary until he had had an opportunity to consult with his delegation; that this consultation had been had and that the Chinese Delegation thought he should bring the matters that China had in mind to the attention of the Secretary and have an understanding with him.

The Minister said that the Chinese Government wished to bring up the matter of tariff autonomy and that he understood that this could be brought up under the heading of administrative integrity of China without an amendment of it; the Secretary said that in his opinion this could be done so far as presenting the question for general discussion was concerned.

The Minister said that they were particularly interested in the question of "Commitments" and were desirous of knowing whether under this heading the Anglo-Japanese Alliance could be brought into the Conference.

The Secretary said that he thought that any restriction upon the discussion of the Anglo-Japanese Alliance would not result from the form of the agenda but from an unwillingness of Great Britain and Japan to discuss it at the Conference; that the Alliance was a matter between the two Governments, Great Britain and Japan, and that if they refused to discuss it at the Conference, no good would be accomplished by putting it on the agenda; that on the contrary, the bringing of the matter up in a preliminary way would simply be an obstacle to its discussion as it would very likely invite a protest; that if, on the other hand, the developments of the Conference afforded any possibility for the appropriate discussion of the Anglo-

Japanese Alliance, then the discussion could be had and in the Secretary's view that is the only way that the discussion of that matter could be brought about. The Secretary said that therefore he thought that the Chinese Government would be ill advised if they proposed as an addition to the agenda the Anglo-Japanese Alliance.

The Secretary said that he had noted that in the statement which the Minister had given to him at the last interview, the reference in the agenda to the Chinese Eastern Railway had been omitted; that he wished to advise the Minister that he was very certain that the subject of the Chinese Eastern Railway would be discussed; that it had international aspects and he did not see how the discussion of that matter could be avoided; that, however, he wished to assure the Minister that in proposing the subject of the Railway, the American Government had no idea of any action which would impair any legitimate Chinese or Russian interests; that it was not the purpose of the American Government to ask an interest in the Railway for itself or for its nationals, but simply to perfect the existing Stevens administration so that the Railway might be more efficient as an instrumentality of commerce and that this had for its object the protection of all legitimate interests, and hence the Chinese Government had no reason to object to the discussion of the Railway matter.

The Minister said that he wished to make a personal suggestion with regard to the opening session of the Conference; that he hoped that no distinction would be made with respect to the powers invited to participate in the discussion of Pacific and Far Eastern questions.

The Secretary said that this was a natural suggestion for the Minister to make, and he appreciated the motive which prompted it, but that the Minister must understand the position of the American Government; that all the governments which had not been invited to attend the Conference were perfectly content with the invitations extended to the powers with respect to the discussion of Far Eastern questions because it was realized that it was practically impossible for the American Government to invite all the Governments of the world to participate, and the special interest of the powers invited in the Far Eastern questions was understood; that if, however, it appeared that those powers specially invited for that discussion took part in the discussion of limitation of armament, it would at once provoke a great deal of feeling on the part of the other powers who had not been invited; that for example if the Netherlands took part in the discussion of limitation of armaments, it would be impossible to explain why Sweden, Denmark, Norway, Spain, Brazil and Chile did not take part; that therefore it was

important that it should appear that the participation of the powers specially invited for that purpose was only in the discussion of Pacific and Far Eastern questions. The Minister said that he appreciated this and only wished to make a personal suggestion in the hope that no distinction would be made in the opening session which he understood would not consider the question of limitation of armaments. The Secretary said that he was unable to state at this time all that would be done at the opening session; that he had the entire matter in mind; and that the Minister should feel assured that all arrangements made would be made in the light of the desire not to wound the sensibilities of any of the delegations, but on the other hand, to maintain the distinction set forth in the invitations so that the uninvited powers would fully understand.

500.A41a/62 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

[Paraphrase]

TOKYO, November 9, 1921—11 a.m.

[Received November 10—2:22 a.m.]

377. During a talk with Hara⁸⁷ lasting for two hours, the day before his death, he said that Japan attached no special importance to the order in which limitation of armaments and Pacific and Far Eastern questions should be discussed, that the former was the important object of the Conference but presented complications because it would be difficult to agree upon a basis for limitation. He stated it might be preferable to first dispose of the other questions as he thought they would be easily settled if the other powers could be made to understand the position of Japan in regard to them. He said that Japan, during his administration, had no territorial ambitions in China or elsewhere. He refuted the allegation that Japan in her Chinese policy was guided by a desire to have China weak. He said that Japan's policy should be to have a strong Government in China, as he believed that Japan, because of her geographical position, would benefit more economically than any other power by rehabilitation and stable conditions in China. He further stated that Japan favored cooperation with Great Britain and the United States in establishing a common policy with respect to China but felt great caution should be exercised if it came to making loans for rehabilitating her finances because of the propensity of Chinese officials to divert to their own pockets the proceeds of loans.

⁸⁷ Takashi Hara, Japanese Prime Minister.

He said the Government was anxious to withdraw its forces as soon as possible from Siberia, but guarantees were first necessary to protect Japanese residents and their property there and against military operations in Manchuria and Korea and also against establishment by Korean seditionists of bases of communication in Russia and the propagation in Japanese dominions of Bolshevik doctrines. He stated that progress in negotiations at Dairen was now blocked because the Chita delegates desired to have representatives from Moscow take part in the Dairen Conference⁸⁸ to which Japan could not agree because it felt none of the other powers had relations with Moscow, and also because the negotiations concerned only Siberian questions. He added that Japan had no intention of including among the subjects of discussion at the Dairen Conference the occupation of Sakhalien as the Chita delegates had declared that the Republic did not have jurisdiction over Sakhalien Province and this question, therefore, would have to wait until some future Russian Government would be ready to arrive at a settlement of the Nikolaevsk massacre.

I have since had a long talk with Uchida^{88a} who in statements similar to those of Hara covered the same ground. Uchida will meet the British Ambassador and as stated to me desired to continue Hara's policy and desires that the delegates be guided by the instructions Hara gave. In view of this it is still important to know the views of Hara.

As I forecast in my 374 of November 5,⁸⁹ Saionji can be Premier if he will accept, according to best information. He will naturally not announce decision until the Hara burial. Choice is uncertain between two or three if he refuses but the demand of the public is for continuance of the Hara policies during the Conference and of present Cabinet to hold the support in Lower House of Seiyukai party. There is no evidence of any disruption in the Cabinet and the Elder Statesmen appear to be consulting all the necessary elements to be assured of an acceptable choice.

WARREN

500.A4/308

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 543

CONSTANTINOPLE, *November 9, 1921.*

[Received November 29.]

SIR: I have the honor to enclose three copies, together with a translation in triplicate, of a note from the Foreign Office of the Soviet

⁸⁸ See vol. II, pp. 713 *passim*.

^{88a} Count Yasuya Uchida, Japanese Minister of Foreign Affairs.

⁸⁹ Not printed.

government addressed to the British, French, American and Japanese Governments,⁹⁰ under date of November 2nd, as received by our wireless station in which protest is made against the announcement that no Russian representatives will be invited to attend the forthcoming conference on the limitation of armament.

I have [etc.]

MARK L. BRISTOL

[Enclosure—Translation ⁹¹]

The People's Commissar for Foreign Affairs of the Russian Socialist Federated Soviet Republic (Chicherin) to the Governments of the United States, France, Great Britain, Italy, and Japan

[Moscow,] November 2 [, 1921].

The declaration of July 19^{91a} by which the Russian Government protested against the convocation of an international conference on Pacific questions without its participation was ignored by the powers. In view of the approaching opening of this conference, the Russian Government repeats its protest against this attempt at solving, in the absence of representatives of Russia, the problems in which it is directly interested, and also its declaration of conserving full liberty of action in all questions treated at this conference, and of using this liberty on all occasions and by all the means that it considers proper.

The toiling masses of Russia have received with the greatest indignation this new manifestation of the policy of violence and injustice followed in regard to them. The Workers' and Peasants' Government of Russia declares that a nation of over a hundred and thirty millions will not permit its will to be violated and will not allow itself to be treated like an inert being by the decisions of others. The working masses of Russia who devote their greatest efforts to her economic reconstruction know that, in spite of the famine resulting from the Allied blockade and from the drought, the moment of the revival of their economic force is rapidly approaching. Those who now violate the most elementary requirements of their dignity and of their sovereign rights will then find themselves face to face with the results of their conduct towards Russia.

It is only with great indignation that the people of Russia can receive the declaration by which the powers take upon themselves the care of Russia's interests. Russia has during these last years sufficiently experienced the solicitude of the Great Powers. Those that now intend to take upon themselves the guarding of her interests

⁹⁰ The Soviet government's note, garbled in transmission, was apparently also addressed to the Italian Government.

⁹¹ Supplied by the editor from the French original.

^{91a} *Anie*, p. 41.

are the same governments which have inundated her territories with blood by sending against her the Tsarist generals and who have strangled her with the murderous loop of the blockade. The working people of Russia understand quite well that if these powers will take upon themselves the decision of questions which concern Russia, these will be reached under the influence of interests quite different from those of Russia, and the solution which will be found will be detrimental to the Russian Nation. The latter knows in advance that any agreement between the powers who would take upon themselves to decide for Russia will be certainly an act of the same order as the treaties of Versailles and of Sèvres.

But Russia is not a conquered country. It came out victorious from all the trials that it was subjected to by the powers who now arrogate to themselves the task of taking care of its interests. The laboring masses of Russia have sufficiently demonstrated that they know how to resist attempts of violence from the exterior, and they will in the same manner repulse any new similar attempts.

Whatever will be the ostensible agreement come to at Washington, the suspicion, nearly the certainty, will always exist that secret agreements have been concluded to the detriment of Russia, and one more element of defiance and suspicion will be introduced into international relations. In these conditions the decisions of the Washington Conference will inevitably be the source of new conflicts, new troubles, and new shocks. Far from bringing pacification they will bring trouble, struggle, and hatred into the international life of nations and will only be the cause of new calamities for humanity.

CHICHERIN

[Papers relating to the period of the Conference (November 12, 1921–February 6, 1922) will appear in a later volume of *Foreign Relations*.]

CORRESPONDENCE WITH THE LEAGUE OF NATIONS REGARDING MANDATES

8621.01/34 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

[Paraphrase]

PARIS, *February 17, 1921—8 p.m.*

[Received 10:33 p.m.]

116. It is understood that both the A and the B mandates will come up for final consideration at first favorable opportunity at next meeting of the Council of the League of Nations which will take

place on February 21 at Paris. According to information received, the Council is under pressure from interested parties, but is anxious to bring mandates into accord with the Covenant. American views may be reasonably expected to receive consideration of Council. Your oil note to the British Government⁹² is, of course, known to the Council, but I am informed that as the note has not been presented to them officially they cannot act on it.

I venture to submit for the Department's consideration the following: In disposition of German possessions overseas we claim joint and equal rights with the four Great Powers. Before the Council can confirm and define any given mandate our consent must be obtained if not already given. We should in any case register formal protest against Council's action of December 17 last in defining the terms of the Japanese mandate over former German islands, including Yap, lying north of the equator.⁹³ As set forth in the mandate, this action rested on agreement between the Principal Allied and Associated Powers to confer the mandate upon Japan, when in fact the Principal Allied Powers had been notified of our dissent.⁹⁴

WALLACE

8621.01/34 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, *February 20, 1921—11 p.m.*

103. With reference to Embassy's 116 of February 17. Department desires you to notify President and Council of the League of Nations that this Government has been informed that the question of the terms and provisions of the mandates already allocated or to be allocated will come before the Council at its sessions commencing on February 21. The Government of the United States wishes to submit to the Council of the League an explanation of its views, which it has already communicated in part to the Principal Allied Powers severally. This Government desires also to present certain additional observations which appear appropriate to the contemplated action of the Council. It respectfully asks, therefore, that no final decision be taken on any point touching the question of the mandates until after the receipt of the communication mentioned above, which is in course of preparation and which will be transmitted through you at a very early date.

COLBY

⁹² Note of Nov. 20, 1920, *Foreign Relations*, 1920, vol. II, p. 669.

⁹³ See note of Feb. 17, 1921, from the Secretary General of the League of Nations, p. 118.

⁹⁴ See telegram no. 1136, Nov. 9, 1920, to the Ambassador in Great Britain, vol. II, p. 263.

8621.01/34 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 21, 1921—7 p.m.

107. Referring again to your 116, February 17, and our Number 103, February 20, 1921, 11 p.m., you will please deliver the following note immediately to the President of the Council of the League of Nations, setting it forth exactly as herewith transmitted, including ascription and signature.

The reason for this careful instruction is that as Ambassador you have no official contact with the League and no recognized capacity even as a conduit for the transmission of communications. It is desired that the communication should be presented and delivered as coming directly from this Government. We have recourse to the method of sending it through you in order to expedite and assure its delivery to the President of the League, to whom it is addressed.

You will observe that the communication contemplates the delivery at the same time of a copy of the note of this Government dated November 20, 1920, addressed to Curzon, British Secretary of State for Foreign Affairs,⁹⁵ on the subject of the nature of a mandate. It is desired that you will deliver with the communication set forth below a clear copy of said note of November 20, of which you have a copy.

“To the President and Members of the Council of the League of Nations:

1. The Government of the United States has received information that the Council of the League of Nations at its meeting which is to be held in Paris on this date, proposes to consider at length the subject of mandates, including their terms, provisions and allocation, and accordingly takes this opportunity to deliver to the Council of the League of Nations a copy of its note addressed under date of November 20, 1920, to His Excellency Lord Curzon of Kedleston, the British Secretary of State for Foreign Affairs, in which the views of the United States are quite fully set forth regarding the nature of the responsibilities of mandatory powers.

The attention of the Council of the League of Nations is particularly invited to the request therein made on behalf of this Government that the draft mandate forms intended to be submitted to the League of Nations be communicated to this Government for its consideration before submission to the Council of the League, in order that the Council might thus have before it an expression of the opinion of the Government of the United States on the form of such mandates, and a clear indication of the basis upon which the approval of this Government, which is essential to the validity of any determinations which may be reached, might be anticipated and

⁹⁵ *Foreign Relations*, 1920, vol. II, p. 669.

received. It was furthermore stated in said note that the establishment of the mandate principle, a new principle in international relations and one in which the public opinion of the world is taking especial interest, would seem to require the frankest discussion from all pertinent points of view, and the opinion was expressed that suitable publicity should be given to the drafts of mandates which it is the intention to submit to the Council in order that the fullest opportunity might be afforded to consider their terms in relation to the obligations assumed by the mandatory powers and the respective interests of all governments who deem themselves concerned or affected.

A copy of this note was transmitted to the Governments of France and Italy⁹⁶ requesting an interpretation by each government of the provisions of the agreement between Great Britain, Italy and France signed at Sèvres on August 10, 1920, relating to the creation of spheres of special interests in Anatolia, in the light of this government's note to the British Government, of November 20, 1920. A reply has thus far been received only from the French Government,⁹⁷ in which attention is directed to Article X of the so-called Sèvres Treaty, which provides, in favor of nationals of third Powers, for all economic purposes, free access to the so-called zones of special interest.

2. This Government is also in receipt of information that the Council of the League of Nations, at its meeting at Geneva on December 17, last, approved among other mandates a mandate to Japan embracing 'all the former German islands situated in the Pacific Ocean and lying north of the Equator'.⁹⁸ The text of this mandate to Japan which was received by this Government and which, according to available information, was approved by the Council, contains the following statement:

'Whereas the principal Allied and Associated Powers agreed that in accordance with Article XXII, Part I, (Covenant of the League of Nations) of the said Treaty, a mandate should be conferred upon His Majesty the Emperor of Japan to administer the said islands, and have proposed that the mandate should be formulated in the following terms: Et cetera.'

The Government of the United States takes this opportunity respectfully and in the most friendly spirit to submit to the President and Members of the Council of the League that the statement above quoted is incorrect and is not an accurate recital of the facts. On the contrary, the United States which is distinctly included in the very definite and constantly used descriptive phrase "the Principal Allied and Associated Powers", has not agreed to the terms or provisions of the mandate which is embodied in this text, nor has it agreed that a mandate should be conferred upon Japan covering all the former German islands situated in the Pacific Ocean and lying north of the Equator.

The United States has never given its consent to the inclusion of the Island of Yap in any proposed mandate to Japan, but, on the

⁹⁶ See instruction no. 681, Dec. 1, 1920, to the Ambassador in France, *Foreign Relations*, 1920, vol. II, p. 674.

⁹⁷ Note of Jan. 12, 1921, from the French Minister of Foreign Affairs, *ibid.*, p. 675.

⁹⁸ See note of Feb. 17, 1921, from the Secretary General of the League of Nations, p. 118.

other hand, at the time of a discussion of a mandate covering the former German Islands in the Pacific north of the Equator, and in the course of said discussion, President Wilson, acting on behalf of this Government, was particular to stipulate that the question of the disposition of the Island of Yap should be reserved for future consideration. Subsequently, this Government was informed that certain of "The Principal Allied and Associated Powers" were under the impression that the reported decision of the Supreme Council, sometimes described as the Council of Four, taken at its meeting on May 7, 1919, included or inserted the Island of Yap in the proposed mandate to Japan.⁹⁹ This Government in notes addressed to the Governments of Great Britain, France, Italy and Japan,¹ has set forth at length its contention that Yap had in fact been excepted from this proposed mandate and was not to be included therein. Furthermore, by direction of President Wilson, the respective governments, above mentioned, were informed that the Government of the United States could not concur in the reported decision of May 7, 1919, of the Supreme Council.² The information was further conveyed that the reservations which had previously been made by this government regarding the Island of Yap were based on the view that the Island of Yap necessarily constitutes an indispensable part of any scheme or practicable arrangement of cable communication in the Pacific, and that its free and unhampered use should not be limited or controlled by any one Power.

While this Government has never assented to the inclusion of the Island of Yap in the proposed mandate to Japan, it may be pointed out that even if one or more of the other Principal Allied and Associated Powers were under a misapprehension as to the inclusion of this island in the reported decision of May 7, 1919, nevertheless the notes, above mentioned, of the Government of the United States make clear the position of this Government in the matter. At the time when the several notes were addressed to the respective governments above mentioned, a final agreement had not been reached as to the terms and allocation of mandates covering the former German islands in the Pacific. Therefore, the position taken in the matter by the President on behalf of this Government and clearly set forth in the notes referred to, necessarily had the result of effectively withdrawing any suggestion or implication of assent, mistakenly imputed to this Government, long before December 17, 1920, the date of the Council's meeting at Geneva.

As one of the Principal Allied and Associated Powers, the United States has an equal concern and an inseparable interest with the other Principal Allied and Associated Powers in the overseas possessions of Germany, and concededly an equal voice in their disposition, which it is respectfully submitted cannot be undertaken or effectuated without its assent. The Government of the United States therefore respectfully states that it cannot regard itself as bound by the terms and provisions of said mandate and desires to

⁹⁹ See telegram no. 598, Nov. 19, 1920, from the Chargé in Japan, vol. II, p. 264.

¹ See telegram no. 1136, Nov. 9, 1920, to the Ambassador in Great Britain, *ibid.*, p. 263.

² See telegram no. 1199, Dec. 4, 1920, to the Ambassador in Great Britain, *ibid.*, p. 265.

record its protest against the reported decision of December 17 last, of the Council of the League of Nations in relation thereto, and at the same time to request that the Council, having obviously acted under a misapprehension of the facts, should reopen the question for the further consideration, which the proper settlement of it clearly requires.

Bainbridge Colby
Secretary of State of the United States."

COLBY

8621.01/69

The Ambassador in France (Wallace) to the Secretary of State

No. 2205

PARIS, March 3, 1921.

[Received March 16.]

SIR: Referring to the Department's telegraphic instruction No. 103 February 20, 11 a.m. [*p.m.*], and my reply thereto No. 131, February 21, 8 p.m.,⁴ I have the honor to enclose herewith for your information, copies of my letters of February 21, 1921, to the President of the Council and the Secretary General of the League of Nations,⁵ conveying in accordance with your instructions a request that the Council postpone consideration and action with regard to the question of mandates, pending the receipt of a communication from you in the matter.

There is also enclosed copies of the replies from the President of the Council and Secretary General of the League dated February 22, 1921.⁴

I have [etc.]

HUGH C. WALLACE

[Enclosure—Translation ⁶]

*The President of the Council of the League of Nations (Da Cunha)
to the American Ambassador in France (Wallace)*

PARIS, February 22, 1921.

YOUR EXCELLENCY: I have the honor to inform you that your letter of February 21st has reached me and that I have hastened to make its contents known to my colleagues on the Council of the League of Nations.

The Council will read with the greatest interest the communication which, as you have informed me, is to arrive shortly. In deference to your request, it will be careful to postpone any definite decision with regard to the draft mandates now under discussion until after the receipt of your communication. The draft mandates which are

⁴The latter not printed.

⁵Letters not printed.

⁶File translation revised.

now on the agenda of the present Council meeting are those of types "A" (Asia Minor) and "B" (Central Africa).

Your Excellency is aware that the "C" mandates (Pacific Islands and German West Africa) were finally decided upon and published more than two months ago. In fact, the Council, at its meeting on December 17, 1920, determined the degree of authority, control or administration to be exercised by the mandatories over these territories, thus giving effect to paragraph 8, article 22 of the Covenant.

I have [etc.]

GASTAO DA CUNHA

8621.01/68

The Ambassador in France (Wallace) to the Secretary of State

No. 2209

PARIS, March 3, 1921.

[Received March 16.]

SIR: In confirmation of my telegram No. 156, March 1, 8 p.m.,⁷ I have the honor to enclose herewith a copy and English translation of a note dated March 1, from His Excellency Senhor Gastao da Cunha, President of the Council of the League of Nations,⁷ transmitting the reply—the original text of which is likewise enclosed herewith—of the Council to your communication of February 21st last.

There is also enclosed herewith a copy and translation of my note⁷ in reply to the aforementioned letter of Mr. da Cunha, dated March 3rd, 1921, in accordance with the instructions contained in your telegram No. 127, March 2, 12 a.m.⁷

I have [etc.]

HUGH C. WALLACE

[Enclosure]

*The President of the Council of the League of Nations (Da Cunha)
to the Secretary of State*

I am directed by the Council of the League of Nations to acknowledge the receipt of your communication of February 21 on certain matters connected with the Mandates which, under the provisions of the Covenant, will define the responsibilities and limit the powers of the Governments entrusted with the administration of various territories, outside Europe, formerly in the possession of Germany and Turkey.

The main points brought out in the American Note, if I may be permitted to summarise them, are that the United States must be consulted before any Mandates are allotted or defined, and that the frankest discussion from all pertinent points of view should be en-

⁷ Not printed.

couraged. In the "A" Mandates, exception is taken to the possible limitation of commercial opportunity as regards oil in Mesopotamia and in the "C" Mandates to the allocation of the Island of Yap to Japan.

The Council wishes to express its deep satisfaction at the interest shown by your Government in this question, which the Council has long felt to be among the most important assigned to the League. Undoubtedly, also, it is one of the most difficult, and the Council not only welcomes but feels justified in claiming the sympathy and support of the Governments which devised the scheme which the Council is required to administer.

The most fundamental contention brought forward by the American Note is that the "approval of the United States of America is essential to the validity of any determination which may be reached" respecting the Mandates which have been, or may be, submitted to the judgment of the Council. The United States was one of the leading actors, both in the war and in the negotiations for peace. The rights which it acquired are not likely to be challenged in any quarter. But the American Government will itself recognise that the situation is complicated by the fact that the United States, for reasons which the Council would be the last to question, has so far abstained from ratifying the Peace Treaty, and has not taken her seat on the Council of the League of Nations.

The Council might easily have dwelt on the controversial aspects of the American Note. But this procedure would ill-represent their true attitude. They prefer to examine the subject from the broad basis of international co-operation and friendship, in the belief that this course will appeal to the spirit of justice of the Government and people of the United States.

The Council has taken several important decisions with regard to Mandates, which it confidently hopes will commend themselves to the American Government.

The Council had already determined on February 21, before the receipt of the American Note, to postpone the consideration of the "A" Mandates for former Turkish possessions, including Mesopotamia. No conclusions will therefore be reached with regard to "A" Mandates until the United States Government has had an opportunity to express its views.

The Council had expected to approve finally at the Session now being held the "B" Mandates for the former Central African Colonies for [of] Germany.

In view of the desire expressed by the United States, the Council is, however, deferring its consideration of these Mandates until its next Session which will probably take place in May or June. It is

hoped that the delay will not hamper the administrative progress of these territories.

The Council invites the United States to take part in the discussions at its forthcoming meeting when the final decisions as to the "A" and "B" Mandates will, it is hoped, be taken. A problem so intricate and involved as that of Mandates can hardly be handled by the interchange of formal notes. It can only be satisfactorily solved by personal contact and by direct exchange of opinion.

Not only do such direct negotiations, which correspond to the true spirit of the League of Nations effect an increase of freedom, flexibility and speed, but they create a spirit of mutual good-will and co-operation among people meeting around the same table.

Regarding the third type of Mandates, the "C" group of former German possessions in South [*West?*] Africa and the Pacific, the Council has not the advantage of the same liberty of action as in the "A" and "B" types. The "C" Mandates were defined by the Council at its Meeting in Geneva on December 17, 1920. The main American objection in this case, it is understood from Your Excellency's Note, is to the effect that the Island of Yap was included by the Council in the Mandate given to Japan, whereas Your Excellency states that the United States has on several occasions refused to agree to the allocation of this Island to any one State.

The Council of the League of Nations would remind Your Excellency that the allocation of all the Mandated territories is a function of the Supreme Council and not of the Council of the League. The League is concerned, not with the allocation but with the administration of these territories. Having been notified in the name of the Allied and Associated Powers that all the Islands North of the Equator had been allocated to Japan, the Council of the League merely fulfilled its responsibility of defining the terms of the Mandate.

Consequently, if a misunderstanding exists as to the allocation of the Island of Yap, that misunderstanding would seem to be between the United States and the Principal Allied Powers rather than between the United States and the League. However, in view of the American contention the Council of the League has hastened to forward the American Note to the Governments of France, Great Britain, Italy and Japan.

The Council hopes that these explanations will prove satisfactory to the United States Government, and that reciprocal good-will will find a solution in harmony with the generous spirit which inspired the principle of the Mandates.

GASTAO DA CUNHA

PARIS, *March 1, 1921.*

800.01 M 31/50 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, June 17, 1921—9 p.m.

[Received June 18—3:42 a.m.]

392. Have received from the President of the Council of the League of Nations copy of letter addressed by him to the Prime Ministers of the Principal Allied Powers with the request that I bring the same to your knowledge.

Substantially note which is dated June 15 is that it is desirable that the population of the mandated territories should be placed as soon as possible under a definite civil administration instead of present temporary regime; that the Allied and Associated Powers will understand that the Council of the League prefers not to exercise the duty with which it is charged by article 22 of the Pact until the title of the mandatory powers to exercise the mandate[s] has been accepted and defined as a result of a complete agreement between the Principal Allied and Associated Powers. The President of the Council therefore requests Principal Allied Powers to endeavor to obtain a solution of the points under discussion between them and the United States in order permit the Council of the League to settle the question of mandates before the next Assembly.

The Council of the League considers it essential that a complete agreement between the Allied Powers and the United States should be established before the next Assembly in order that it may proceed with the examination of the terms of the mandates.

Text of note ⁹ going forward by this pouch.

WALLACE

**DRAFT MANDATES AND OTHER DOCUMENTS RELATING TO
TERRITORIES UNDER MANDATE**

800.01 M 31/2

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

No. 3599

LONDON, October 15, 1920.

[Received October 28.]

SIR: With reference to my despatch No. 3547 of October 6, 1920,⁹ I now have the honor to transmit herewith, for the information of the Department, a collection of documents¹⁰ which have been published by the Secretariat of the League of Nations regarding Mandates.

⁹ Not printed.

¹⁰ Only one of the enclosed documents printed.

I am informed by the League organisation here that but few documents have been published by the Secretariat owing to the fact that the terms of the Mandates have not yet been definitely established, and for this reason the Mandates System cannot yet be said to have a working existence.

I am endeavoring to obtain further information in this regard from the Foreign Office, which I shall not fail to transmit to the Department immediately upon receipt.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure]

The President of the Council of the League of Nations (Quiñones de León) to the Prime Ministers of France, Great Britain, Italy, and Japan

SAN SEBASTIAN, 5 August, 1920.

YOUR EXCELLENCY: It is laid down in Article 22 of the Covenant of the League of Nations that the colonies and territories, which in consequence of the war have ceased to be under the sovereignty of the States which formerly governed them, and which are inhabited by peoples not yet able to stand by themselves in the strenuous conditions of the modern world, shall be administered by Mandatory Powers acting in the name of the League and accepting as a sacred trust of civilisation the responsibility of ensuring the wellbeing and the development of such peoples.

Furthermore, by Article 119 of the Treaty of Versailles, all rights formerly possessed by Germany over territories outside Europe have been transferred to the principal Allied and Associated Powers. And it is understood that a similar provision will probably form part of the Treaty of Peace with Turkey, with regard to those territories which may cease to form part of the Turkish Empire [Empire].

The Council of the League of Nations concludes from these Articles that it is for the principal Allied Powers to determine in each case the appointment either of one of their own number, or of some other Power, to carry on the government of the territories referred to above, as Mandatories on behalf of the League of Nations.

Your Excellency will agree that the Treaty of Versailles, having now been in force since the 10th January 1920, it is much to be desired that the application of the Mandatory system provided for by Article 22 of the Covenant, should not be further delayed.

The Council has decided to request the principal Allied Powers to inform it officially at the earliest possible date as to what Powers have been appointed by them to act as Mandatories under the terms of Article 22 and what are the boundaries of the territories to which the Mandates in question refer.

Furthermore, the Council requests the principal Allied Powers to communicate to it at the same time the terms and conditions which they propose that the Council should adopt in respect of such Mandates, in accordance with the principles laid down in Article 22, paragraphs 5 and 6.

The Council ventures to call the attention of the Governments of the principal Allied Powers to the necessity for a prompt answer to these questions. There can be no doubt but that the Assembly of the League, which will meet on the 15th November, will be keenly anxious to know what steps have been taken for the carrying out of Article 22.

The Council hopes that the principal Allied Powers will be good enough to communicate to it officially, as soon as they are in a position to do so, information of a similar kind with respect to territories which have ceased, in point of fact, to form part of the Turkish Empire—viz., what Powers they have appointed to be Mandatories, what are the boundaries of the territories referred to by the Mandates in question, and, finally what degree of authority, administration or control they suggest that the Council should confer upon the Mandatory Powers, under the terms of Article 22, paragraphs 4 and 8.

The Report by the Belgian Representative, of which copies are enclosed herewith,¹² was unanimously adopted by the Council, and expresses the Council's understanding as to how it should carry out the mission entrusted to it by the Covenant.

I have [etc.]

QUIÑONES DE LEÓN

890d.01/30

The Ambassador in France (Wallace) to the Secretary of State

No. 2017

PARIS, *January 7, 1921.*

[Received January 20.]

SIR: Referring to your telegram No. 1698, of December 14th, 4 P. M.,¹² instructing me to endeavor to secure the draft terms of the Syrian Mandate of which a complete draft, according to information furnished the Department by the American Consul at Beirut, was in the possession of the French Government, I have the honor to enclose herewith a copy of the Note dated December 1, 1920, from Monsieur Jean Gout, Chief of the French section of the League of Nations, to Sir Eric Drummond, Secretary General of the League,

¹² Not printed.

together with a copy of the enclosure to his letter being the text of the mandate which the French Government has accepted over Syria and Lebanon. . . .

I have [etc.]

HUGH C. WALLACE

[Enclosure]

*The Chief of the French Section of the League of Nations (Gout)
to the Secretary General of the League (Drummond)*

GENEVA, December 1, 1920.

SIR: In accordance with instructions from my Government, I have the honour to communicate to you the enclosed text of the mandate which the French Republic has accepted for Syria and Lebanon, and I beg you to deposit it with the Bureau of the Council of the League of Nations.

In conformity with the spirit of Article 22 of the Covenant of the League of Nations, the Government of the French Republic has prepared this text after an exchange of views and in complete agreement with His Britannic Majesty's Government. The French Government ventures to hope that the Council after examining this mandate will consider it to be drawn up in conformity with the principles laid down in Article 22 of the Covenant, and will give it its approval.

I would add that, in the interests of the populations of Syria and Lebanon themselves, and with a view to ensuring to them as soon as possible the benefits of a government based on the terms of the Covenant, the Government of the Republic ventures to call the attention of the Council to the advantage of putting an end to the present temporary regime.

I have [etc.]

JEAN GOUT

[Subenclosure]

Draft Mandate for Syria and the Lebanon

WHEREAS, by Article 132 of the Treaty of Peace with Turkey, signed at Sèvres on August 10th, 1920, Turkey has renounced in favour of the Principal Allied Powers all her rights and titles to the territories of the former Ottoman Empire situated to the south of the southern frontier of Turkey as fixed in this Treaty:

AND WHEREAS, by Article 94 of this Treaty, the High Contracting Parties have agreed that, in accordance with the terms of Article XXII, paragraph 4 of the Covenant of the League of Nations, that

part of the above-mentioned territories known as Syria be constituted an independent State, the administration of which shall be assisted by the advice and help of a Mandatory Power, until this State is in a position to govern itself:

AND WHEREAS the Principal Allied Powers have decided that the Mandate for these territories comprising Syria and Lebanon should be conferred on the Government of the French Republic, which has accepted it:

AND WHEREAS the terms of this Mandate, which are also defined in the Articles below, have been accepted by the Government of the French Republic:

AND WHEREAS the Government of the French Republic undertakes to exercise this Mandate on behalf of the League of Nations, in accordance with the above Articles:

THE COUNCIL OF THE LEAGUE OF NATIONS approves the following Terms of the Mandate for Syria and Lebanon:

ARTICLE I

The Mandatory shall, within a period of three years from the coming-into-force of this Mandate, draw up an organic law for Syria and Lebanon. This organic law shall be prepared in agreement with the native authorities and shall take into consideration the rights, interests and desires of all the peoples inhabiting the mandated territory. The Mandatory shall further enact measures to facilitate the progressive development of Syria and Lebanon as independent States. Pending the coming into force of the organic law, the government of Syria and Lebanon shall be carried on in accordance with the spirit of this Mandate.

The Mandatory Power, shall, as far as circumstances permit, encourage local autonomy.

ARTICLE II

The Mandatory shall be empowered to maintain its troops in the mandated territories for the defence of the territory. It shall further be empowered, until such time as the organic law shall come into force and public security be restored, to organize such local militia as may be necessary for the defence of the territory, and to use this militia for defence and also for the maintenance of order. These local forces shall only be recruited from among the inhabitants of the mandated territory.

The militia shall be under local authorities, subject to the control which the Mandatory shall retain over these forces.

The Mandatory shall prevent the employment of the militia for other purposes than those mentioned above. Nothing shall prevent

Syria and Lebanon from sharing the cost of maintaining the forces of the Mandatory stationed in their territory.

The Mandatory shall at all times possess the right to make use of the ports, railways and means of communication of Syria and Lebanon for the passage of its troops and of all materials, supplies and munitions.

ARTICLE III

The foreign relations of Syria and Lebanon, and the granting of exequaturs to the Consuls of foreign Powers shall be exclusively within the jurisdiction of the Mandatory. Nationals of Syria and Lebanon, living outside the limits of these territories shall be under the diplomatic and consular protection of the Mandatory.

ARTICLE IV

The Mandatory shall guarantee Syria and Lebanon against the loss or leasing of all or part of the territory, and against the establishment of any control on the part of a foreign Power.

ARTICLE V

Privileges and immunities granted to foreigners in Syria and Lebanon are expressly abolished, including consular jurisdiction and protection, as formerly practised in the Ottoman Empire in virtue of the Capitulations and of general custom.

At the same time, foreign consular tribunals shall continue to perform their duties until the coming into force of the new legal organisation provided for in Article VI.

ARTICLE VI

The Mandatory shall establish in Syria and Lebanon a legal system which shall assure to natives, as well as to foreigners, a complete guarantee of their rights.

Respect for the personal status of the various peoples and for their religious interests shall be fully guaranteed. In Particular, the Mandatory shall control the administration of the Wakufs, in complete accordance with the religious laws and the wishes of the founders.

ARTICLE VII

Pending the conclusion of special extradition agreements, the extradition treaties at present in force between the various Powers and the Mandatory shall be carried out within the territories of Syria and Lebanon.

ARTICLE VIII

The Mandatory shall guarantee to all persons entire liberty of conscience and also the free exercise of all forms of worship which are compatible with public order and good morals. It will be the duty of the Mandatory to see that the extradition treaties in force between foreign Powers and the Mandatory are observed in the territories of Syria and Lebanon. There shall be no inequality of treatment between the inhabitants of Syria and Lebanon arising from differences in race, religion or language.

The Mandatory shall encourage such public instruction, in the native languages, as is customary in the territories of Syria and Lebanon.

The right of communities to keep their own schools for the instruction and education of their members in their own language shall not be infringed, provided that they conform to the general regulations for Public Instruction published by the Administration.

ARTICLE IX

The Mandatory shall refrain from all interference in the administration of "conseils de fabrique" or in the management of religious communities and sacred places belonging to the various religions, the immunity of which has been expressly guaranteed.

ARTICLE X

The control exercised by the Mandatory over the religious missions in Syria and Lebanon shall be limited to the maintenance of public order and sound administration; the activities of these religious missions shall in no way be restricted, nor shall their members be subjected to any restrictive measures on the ground of nationality, provided that their activities are confined to the domain of religion.

ARTICLE XI

The Mandatory shall not act in any way which in Syria or Lebanon might place the nationals (including Societies and Associations) of a State Member of the League of Nations in a position of inferiority either as compared with its own nationals (including Societies and Associations) or with the nationals of any other foreign State, both in respect of fiscal or commercial matters and also from the point of view of the exercise of professions or industries, and of navigation and the treatment granted to ships and aircraft. In the same way, no differential treatment shall be accorded in Syria or the Lebanon

to goods coming from or intended for any of these States; there shall be freedom of transit, under equitable conditions, across the mandated territory.

Apart from these stipulations, the Mandatory may introduce or cause to be introduced by the local authorities, all necessary taxes and customs dues. Under the same conditions, it may take, or cause to be taken, all necessary steps to assure the development of the national resources in the mandated territory and to safeguard the interests of the local population.

The above regulation shall not affect the right of the Mandatory, or of the local authority acting under its orders, to conclude, on grounds of contiguity, any special customs agreements with an adjoining country.

ARTICLE XII

The Mandatory shall, as regards Syria and Lebanon, adhere to such general international agreements as have been or may be concluded with the approval of the League of Nations, especially in respect of the following: slave traffic, trade in narcotics, traffic in arms and munitions, commercial equality, freedom of transit and navigation, aerial navigation, railways, postal, telegraphic or wireless communications, and measures for the protection of Literature, Art and Industries.

ARTICLE XIII

As far as social, religious and other conditions permit, the Mandatory shall assure the adherence of Syria and Lebanon to such measures of common utility as the League of Nations may adopt for preventing or combating disease, including animal and plant diseases.

ARTICLE XIV

In the year following the coming into force of this Mandate, the Mandatory shall draw up and put into force a Law dealing with Antiquities, in accordance with the terms of Article 421 of the Treaty of Peace concluded between the Allied Powers and Turkey. This Law shall assure equal treatment as regards excavations and archaeological research to all States Members of the League of Nations.

ARTICLE XV

As soon as the organic law referred to in Article I shall have come into force, the Mandatory shall come to an agreement with the local authorities on the subject of its reimbursement by the latter

for all expenses incurred by the Mandatory in organising the administration, developing local resources, and carrying out permanent public works the benefit of which the country would retain. This agreement shall be communicated to the Council of the League of Nations.

ARTICLE XVI

Arabic and French shall be the official languages of Syria and Lebanon.

ARTICLE XVII

The Mandatory shall make to the Council of the League of Nations an annual report as to the measures taken during the year for the application of the present mandate.

The text of all laws and regulations promulgated during the year shall be attached to the report.

ARTICLE XVIII

The consent of the Council of the League of Nations shall be necessary for any modification in the terms of this Mandate. The consent of the majority of the Council of the League shall be required for any modification proposed by the Mandatory.

ARTICLE XIX

In case any difference of opinion should arise between the Members of the League of Nations regarding the interpretation or application of the Articles of this Mandate, the question shall be submitted to the Permanent Court of International Justice provided for in Article XIV of the Covenant of the League of Nations.

DONE at Geneva, on in one original, which shall be deposited in the archives of the Secretariat General of the League of Nations. Certified copies shall be sent by the Secretary General of the League of Nations to all Powers signatory to the Treaty of Peace with Turkey.

890g.01/3

The Ambassador in France (Wallace) to the Secretary of State

No. 2040

PARIS, *January 14*, [1921].

[Received January 26.]

SIR: Referring to the penultimate paragraph of my confidential despatch No. 2017 of January 7, 1921, I have the honor to enclose herewith copies in English and French of the letter dated December 6, 1920, from Mr. Arthur J. Balfour to Sir Eric Drummond and of

the enclosures thereto, being the draft mandates for Mesopotamia and Palestine as drawn up by the British Government for consideration by the Council of the League of Nations.

Copies of the aforementioned documents will be forwarded to the American Embassy in London and the American Commission in Berlin.

I have [etc.]

HUGH C. WALLACE

[Enclosure]

The Chief of the British Delegation, Council of the League of Nations (Balfour) to the Secretary General of the League (Drummond)

GENEVA, 6 December, 1920.

In accordance with instructions received from my Government, I have the honour to transmit herewith copies of the texts of the Mandates for Mesopotamia and Palestine as drawn up by His Majesty's Government, and to request that you will be so good as to lay them before the Council of the League of Nations.

His Majesty's Government have prepared the terms of these Mandates in conformity with the spirit of Article XXII of the Covenant of the League of Nations, and have throughout been in consultation with the French Government with whom they are in complete agreement on the subject.

His Majesty's Government venture to hope that an examination of these documents will satisfy the Council that they are in compliance with Article XXII of the Pact, and that the Council will be prepared to approve them.

I should add that, in the interests of the native inhabitants of Mesopotamia and Palestine and with the object of conferring upon them with the least possible delay the benefits of a system based on the stipulations of the Pact, His Majesty's Government desire to draw the attention of the Council to the advisability of bringing to an early close the temporary arrangements at present in force.

I have [etc.]

A. J. BALFOUR

[Subenclosure 11]

*Draft Mandate for Mesopotamia*¹³

THE COUNCIL OF THE LEAGUE OF NATIONS,

WHEREAS by Article 132 of the Treaty of Peace signed at Sèvres on the tenth day of August, 1920, Turkey renounced in favour of the Principal Allied Powers all rights and title over Mesopotamia,

¹³ Bracketed words and phrases which have been inserted in this draft mandate and the one for Palestine which follows, are taken from revised drafts received by the Department as enclosures to despatch no. 427, Sept. 1, 1921, from the Ambassador in Great Britain (file no. 890g.01/13).

and whereas by Article 94 of the said treaty the High Contracting Parties agreed that Mesopotamia should, in accordance with the fourth paragraph of Article 22 of Part I (Covenant of the League of Nations), be provisionally recognised as an independent State, subject to the rendering of administrative advice and assistance by a Mandatory until such time as it is able to stand alone, and that the determination of the frontiers of Mesopotamia other than those laid down in the said treaty, and the selection of the Mandatory would be made by the Principal Allied Powers; and

WHEREAS the Principal Allied Powers have selected His Britannic Majesty as Mandatory for Mesopotamia; and

WHEREAS the terms of the Mandate in respect of Mesopotamia have been formulated in the following terms and submitted to the Council of the League for approval; and

WHEREAS His Britannic Majesty has accepted the Mandate in respect of the said territories and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions;

Hereby approves the terms of the said Mandate as follows:

ARTICLE 1

The Mandatory will frame within the shortest possible time, not exceeding three years from the date of the coming into force of this Mandate, an Organic Law for Mesopotamia. This Organic Law shall be framed in consultation with the native authorities, and shall take account of the rights, interests and wishes of all the populations inhabiting the mandated territory. It shall contain provisions designed to facilitate the progressive development of Mesopotamia as an independent State. Pending the coming into effect of the organic law, the administration of Mesopotamia shall be conducted in accordance with the spirit of this Mandate.

ARTICLE 2

The Mandatory may maintain troops [*armed forces*] in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security, he may organise and employ local forces necessary for the maintenance of order and for the defence of these territories. Such forces may only be recruited from the inhabitants of the territories under the Mandate.

The said local forces shall thereafter be responsible to the local authorities, subject always to the control to be exercised over these forces by the Mandatory, who [*The Mesopotamian Government*] shall not employ them for other than the above-mentioned purpose,

except with the consent of the Mesopotamian Government [*Mandatory*].

Nothing in this article shall preclude the Mesopotamian Government from contributing to the cost of the maintenance of any forces maintained by the Mandatory in Mesopotamia.

The Mandatory shall be entitled at all times to use the roads, railways, and ports of Mesopotamia for the movement of troops [*armed forces*] and the carriage of fuel and supplies.

ARTICLE 3

The Mandatory shall be entrusted with the control of the foreign relations of Mesopotamia, and the right to issue exequaturs to consuls appointed by foreign Powers. He [*It*] shall also be entitled to afford diplomatic and consular protection to citizens of Mesopotamia when outside its territorial limits.

ARTICLE 4

The Mandatory shall be responsible for seeing that no Mesopotamian territory shall be ceded or leased to or in any way placed under the control of the Government of any foreign Power.

ARTICLE 5

The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, are definitely abrogated in Mesopotamia.

ARTICLE 6

The Mandatory shall be responsible for seeing that the judicial system established in Mesopotamia shall safeguard (*a*) the interests of foreigners; (*b*) the law, and (to the extent deemed expedient) the jurisdiction now existing in Mesopotamia with regard to questions arising out of the religious beliefs of certain communities (such as the laws of Wakf and personal status). In particular the Mandatory agrees that the control and administration [of] Wakf[s] shall be exercised in accordance with religious law and the dispositions of the founders.

ARTICLE 7

Pending the making of special extradition agreements with foreign Powers relating to Mesopotamia, the extradition treaties in force between foreign Powers and the Mandatory shall apply to Mesopotamia.

ARTICLE 8

The Mandatory will ensure to all complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals. No discrimination of any kind shall be made between the inhabitants of Mesopotamia on the ground of race, religion or language. Instruction in and through the medium of the native languages of Mesopotamia shall be promoted by the Mandatory.

The right of each community to maintain its own schools for the education of its own members in its own language (while conforming to such educational requirements of a general nature as the Administration may impose) shall not be denied or impaired.

ARTICLE 9

Nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of the sacred shrines, the immunities of which are guaranteed.

ARTICLE 10

The Mandatory shall be responsible for exercising such supervision over missionary enterprise in Mesopotamia as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Mesopotamia to obstruct or interfere with such enterprise or to discriminate against any missionary on the ground of his religion or nationality.

ARTICLE 11

The Mandatory must see that there is no discrimination in Mesopotamia against the nationals of any State member of the League of Nations (including companies incorporated under the laws of such State) as compared with the nationals of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of ships or aircraft. Similarly, there shall be no discrimination in Mesopotamia against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid the Mesopotamian Government may on the advice of the Mandatory impose such taxes and custom[s] duties as it may consider necessary and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population.

Nothing in this Article shall prevent the Mesopotamian Government, on the advice of the Mandatory, from concluding a special customs arrangement with any state, the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 12

The Mandatory will adhere on behalf of Mesopotamia to any general international conventions already existing or that may be concluded hereafter with the approval of the League of Nations respecting the slave traffic, the traffic in arms and ammunition, and the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, laws of aerial navigation, railways and postal, telegraphic and wireless communication, or artistic, literary or industrial property.

ARTICLE 13

The Mandatory will secure the co-operation of the Mesopotamian Government, so far as social, religious and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing [and] combating disease, including diseases of plants and animals.

ARTICLE 14

The Mandatory will secure the enactment within twelve months from the coming into force of this Mandate and will ensure the execution of a Law of Antiquities, based on the contents of Article 421, Part XIII, of the Treaty of Peace with Turkey. This law shall replace the former Ottoman Law of Antiquities, and shall ensure equality of treatment in the matter of archaeological research to the nationals of all States, Members of the League of Nations.

ARTICLE 15

Upon the coming into force of the Organic Law an arrangement shall be made between the Mandatory and the Mesopotamian Government for settling the terms on which the latter will take over Public Works and other services of a permanent character, the benefit of which will pass to the Mesopotamian Government. Such arrangement shall be communicated to the Council of the League of Nations.

[ARTICLE 16

Nothing in this Mandate shall prevent the Mandatory from establishing a system of local autonomy for predominantly Kurdish areas in Mesopotamia as he may consider suitable.]

ARTICLE 16 [17]

The Mandatory shall make to the Council of the League of Nations an annual report as to the measures taken during the year to carry out the provisions of the Mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

ARTICLE 17 [18]

The consent of the Council of the League of Nations is required for any modification of the terms of the present Mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the Council.

[ARTICLE 19]

If any dispute whatever should arise between the members of the League of Nations relating to the interpretation or the application of these provisions which cannot be settled by negotiation, this dispute shall be submitted to the Permanent Court of Internation[al] Justice provided for by Article 14 of the Covenant of the League of Nations.

[ARTICLE 20]

In the event of the termination of the Mandate conferred upon the Mandatory by this Declaration, the Council of the League of Nations shall make such arrangements as may be deemed necessary for securing under the guarantee of the League that the Mesopotamian Government will fully honour the financial obligations legally incurred by the Mandatory during the period of the Mandate, including the rights of public servants to pensions or gratuities.]

The present copy shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers signatories of the Treaty of Peace with Turkey.

Made at the day of

[Subenclosure 2]

*Draft Mandate for Palestine*¹⁴

THE COUNCIL OF THE LEAGUE OF NATIONS,

WHEREAS by Article 132 of the Treaty of Peace signed at Sèvres on the tenth day of August, 1920, Turkey renounced in favour of the Principal Allied Powers all rights and title over Palestine; and

¹⁴ See footnote 13, p. 105.

WHEREAS by Article 95 of the said Treaty the High Contracting Parties agreed to entrust, by application of the provisions of Article 22, the Administration of Palestine, within such boundaries as might be determined [by the Principal Allied Powers, to a Mandatory to be selected] by the said Powers; and

WHEREAS by the same article the High Contracting Parties further agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2, 1917, by the Government of His Britannic Majesty, and adopted by the other Allied Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights [of existing non-Jewish communities in Palestine, or the rights] and political status enjoyed by Jews in any other country; and

WHEREAS recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country; and

WHEREAS the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

WHEREAS the terms of the Mandate in respect of Palestine have been formulated in the following terms and submitted to the Council of the League for approval; and

WHEREAS His Britannic Majesty has accepted the Mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions;

Hereby approves the terms of the said mandate as follows:—

ARTICLE 1

His Britannic Majesty shall have the right to exercise as Mandatory all the powers inherent in the Government of a sovereign State, save as they may be limited by the terms of the present Mandate.

ARTICLE 2

The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safe-guarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

ARTICLE 3

The Mandatory shall encourage the whole [*widest*] measure of self-government for localities consistent with the prevailing conditions.

ARTICLE 4

An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part, in the development of the country.

The Zionist organisation, so long as its organisation and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

ARTICLE 5

The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign Power.

ARTICLE 6

The Administration of Palestine, while ensuring that the rights and position[s] of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage in co-operation with the Jewish agency referred to in Article 4 close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

ARTICLE 7

The Administration of Palestine will be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

ARTICLE 8

The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, are definitely abrogated in Palestine.

ARTICLE 9

The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall safeguard (a) the interests of foreigners; (b) the law, and (to the extent deemed expedient) the

jurisdiction now existing in Palestine with regard to questions arising out of the religious beliefs of certain communities (such as the laws of Wakf and personal status). In particular the Mandatory agrees that the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders.

ARTICLE 10

Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and [other] foreign Powers shall apply to Palestine.

ARTICLE 11

The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country and, subject to Article 311 of the Treaty of Peace with Turkey, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The Administration may arrange with the Jewish agency mentioned in Article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the Administration.

ARTICLE 12

The Mandatory shall be entrusted with the control of the foreign relations of Palestine, and the right to issue exequaturs to consuls appointed by foreign Powers. He [*It*] shall also be entitled to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

ARTICLE 13

All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights, of securing free access to the Holy Places, religious

buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who will be responsible solely to the League of Nations in all matters connected therewith: provided that nothing in this Article shall prevent the Mandatory from entering into such arrangement as he may deem reasonable with the Administration for the purpose of carrying the provisions of this Article into effect; and provided also that nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

ARTICLE 14

In accordance with Article 95 of the Treaty of Peace with Turkey, the Mandatory undertakes to appoint as soon as possible a special Commission to study and regulate all questions and claims relating to the different [religious communities. In the composition of this Commission the] religious interests concerned will be taken into account. The chairman of the Commission will be appointed by the Council of the League of Nations. It will be the duty of this Commission to ensure that certain Holy Places, religious buildings or sites, regarded with special veneration by the adherents of one particular religion, are entrusted to the permanent control of suitable bodies representing the adherents of the religion concerned. The selection of the Holy Places, religious buildings or sites so to be entrusted shall be made by the Commission, subject to the approval of the Mandatory.

In all cases dealt with under this Article, however, the right and duty of the Mandatory to maintain order and decorum in the place concerned shall not be affected, and the buildings and sites will be subject to the provisions of such laws relating to public monuments as may be enacted in Palestine with the approval of the Mandatory.

The rights of control conferred under this Article will be guaranteed by the League of Nations.

ARTICLE 15

The Mandatory will see that complete freedom of conscience and the free exercise of all forms of [worship], subject only to the maintenance of public order and morals, is ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language (while conforming to such educational requirements of a general nature as the Administration may impose) shall not be denied or impaired.

ARTICLE 16

The Mandatory shall be responsible for exercising such supervision over missionary enterprise [*over religious or eleemosynary bodies of all faiths*] in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with such enterprise [*the enterprise of such bodies*] or to discriminate against any missionary [*representative or member of them*] on the ground of his religion or nationality.

ARTICLE 17

The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, who [*but*] shall not use them for purposes other than those above specified save with the consent of the Administration of Palestine, and except [*consent of the Mandatory. Except*] for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this Article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of forces maintained by the Mandatory in Palestine.

The Mandatory shall be entitled at all time[s] to use the roads, railways and ports of Palestine for the movement of troops [*armed forces*] and the carriage of fuel and supplies.

ARTICLE 18

The Mandatory must see that there is no discrimination in Palestine against the nationals of any of the States Members of the League of Nations (including companies incorporated under their laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce, or navigation, the exercise of industries or professions, or in the treatment of ships or aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this Mandate the Administration of Palestine may on the advice of the Mandatory

impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population.

Nothing in this Article shall prevent the Government of Palestine on the advice of the Mandatory from concluding a special customs agreement with any State, the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 19

The Mandatory will adhere on behalf of the Administration to any general international conventions already existing or that may be concluded hereafter with the approval of the League of Nations respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

ARTICLE 20

The Mandatory will co-operate on behalf of the Administration of Palestine so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ARTICLE 21

The Mandatory will secure, within twelve months from the date of the coming into force of this Mandate, the enactment and will ensure the execution, of a Law of Antiquities based on the provisions of Article 421, Part XIII, of the Treaty of Peace with Turkey. This law shall replace the former Ottoman Law of Antiquities, and shall ensure equality of treatment in the matter of archaeological research to the nationals of all States, Members of the League of Nations.

ARTICLE 22

English, Arabic and Hebrew shall be the official languages of Palestine. Any statement or inscriptions in Arabic on stamps or money in Palestine shall be repeated in Hebrew, and any statement or inscriptions in Hebrew shall be repeated in Arabic.

ARTICLE 23

The Administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

ARTICLE 24

The Mandatory shall make to the Council of the League of Nations an annual report as to the measures taken during the year to carry out the provisions of the Mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

[ARTICLE 25

In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled to postpone or withhold application of such provisions of this Mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided no action shall be taken which is inconsistent with the provisions of Articles 15, 16, and 18.]

ARTICLE 25 [26]

If any dispute whatever should arise between the members of the League of Nations relating to the interpretation or the application of these provisions which cannot be settled by negotiation, this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

ARTICLE 26 [27]

The consent of the Council of the League of Nations is required for any modification of the terms of the present Mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the council.

ARTICLE 27 [28]

In the event of the termination of the Mandate conferred upon the Mandatory by this Declaration, the Council of the League of Nations shall make such arrangements as may be deemed necessary for safeguarding in perpetuity, under guarantee of the League, the rights secured by Article[s] 13 and 14, and for securing under the guarantee of the League, that the Government of Palestine will fully honour the financial obligations legitimately incurred by the Administration of Palestine during the period of the Mandate [including the rights of public servants to pensions or gratuities].

The Present copy shall be deposited in the archives of the League of Nations and certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Turkey.

Made at the day of

800.01 M 31/27

*The Secretary General of the League of Nations (Drummond) to
President Harding*

GENEVA, 17 February, 1921.

SIR: I have the honour to transmit to you herewith certified copies of the following Mandates:—

Mandate for Nauru, conferred upon His Britannic Majesty;¹⁵

Mandate for German Samoa, conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Dominion of New Zealand;¹⁵

Mandate for the German Possessions in the Pacific Ocean situated South of the Equator, other than German Samoa and Nauru, conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Commonwealth of Australia;

Mandate for German South-West Africa, conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa;¹⁵

Mandate for the German Possessions in the Pacific Ocean lying north of the Equator, conferred upon His Majesty the Emperor of Japan,¹⁵

as defined by the Council of the League of Nations at its meeting on December 17th, 1920.

In execution of the final provisions of the said Mandates, such certified copies are being forwarded to all Powers Signatories of the Treaty of Peace with Germany.

At the meeting of the Council at which the terms of these Mandates were defined, it was understood that the English text only was to be considered authentic.

I have [etc.]

ERIC DRUMMOND

[Enclosure]

*Mandate for the German Possessions in the Pacific Ocean Situated
South of the Equator, Other Than German Samoa and Nauru*

THE COUNCIL OF THE LEAGUE OF NATIONS:

WHEREAS, by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein German New Guinea and the groups of islands in the Pacific Ocean lying south of the equator other than German Samoa and Nauru; and

¹⁵ Not printed; the same, *mutatis mutandis*, as the mandate for "German Possessions in the Pacific Ocean Situated South of the Equator, Other Than German Samoa and Nauru", *infra*.

WHEREAS the Principal Allied and Associated Powers agreed that in accordance with Article 22, Part I (Covenant of the League of Nations) of the said Treaty, a mandate should be conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Commonwealth of Australia, to administer New Guinea and the said islands, and have proposed that the Mandate should be formulated in the following terms; and

WHEREAS His Britannic Majesty, for and on behalf of the Government of the Commonwealth of Australia, has agreed to accept the Mandate in respect of the said territory and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

WHEREAS, by the afore-mentioned Article 22, paragraph 8, it is provided that the degree of authority, control or administration to be exercised by the Mandatory not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said Mandate, defines its terms as follows:—

ARTICLE 1

The territory over which a Mandate is conferred upon His Britannic Majesty for and on behalf of the Government of the Commonwealth of Australia (hereinafter called the Mandatory) comprises the former German colony of New Guinea and the former German islands situated in the Pacific Ocean and lying south of the equator, other than the islands of the Samoan group and the island of Nauru.

ARTICLE 2

The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Commonwealth of Australia, and may apply the laws of the Commonwealth of Australia to the territory, subject to such local modifications as circumstances may require.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present mandate.

ARTICLE 3

The Mandatory shall see that the slave trade is prohibited, and that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the convention relating to the control of the arms traffic, signed on September 10th, 1919, or in any convention amending the same.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

ARTICLE 4

The military training of the natives, otherwise than for purposes of internal police and the local defence of the territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory.

ARTICLE 5

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE 6

The mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4, and 5.

ARTICLE 7

The consent of the Council of the League of Nations is required for any modification of the terms of the present Mandate.

The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the Mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

The present declaration shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Germany.

Made at Geneva the 17th day of December, 1920.

800.01 M 31/13

The Ambassador in France (Wallace) to the Secretary of State

No. 2211

PARIS, *March 4, 1921.*

[Received March 16.]

SIR: I have the honor to enclose herewith for your confidential information copy of the League of Nations document No. 135 regarding "B" Mandates, . . .

I have [etc.]

HUGH C. WALLACE

[Enclosure—Extract]

League of Nations Document No. 135 Regarding "B" Mandates

ANNEX A: [DRAFT OF THE] BRITISH MANDATE FOR EAST AFRICA

(Submitted for approval)

THE COUNCIL OF THE LEAGUE OF NATIONS

WHEREAS by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favor of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein German East Africa; and

WHEREAS the Principal Allied and Associated Powers agreed that in accordance with Article 22, Part 1 (Covenant of the League of Nations) of the said Treaty a mandate should be conferred upon His Britannic Majesty to administer part of the former colony of German East Africa, and have proposed that the mandate should be formulated in the following terms; and

WHEREAS His Britannic Majesty has agreed to accept the Mandate in respect of the said territory and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions;

Hereby approves the terms of the Mandate as follows:—

ARTICLE 1

The territory over which a mandate is conferred upon His Britannic Majesty (hereinafter called the Mandatory) comprises that part of the territory of the former colony of German East Africa situated to the east of the following line:—

From the point where the frontier between the Uganda Protectorate and German East Africa cuts the River Mavumba a straight line in a south-easterly direction to point 1640, about 15 kilometres south-south-west of Mount Gabiro;

Thence a straight line in a southerly direction to the north shore of Lake Mohazi, where it terminates at the confluence of a river situated about 2½ kilometres west of the confluence of the River Msilala;

If the trace of the railway on the west of the River Kagera between Bugufi and Uganda approaches within 16 kilometres of the line defined above, the boundary will be carried to the West, following a minimum distance of 16 kilometres from the trace, without, however, passing to the West of the straight line joining the terminal point on Lake Mohazi and the top of Mount Kivisa (point 2100), situated on the Uganda-German East African frontier about 5 kilometres south-west of the point where the River Mavumba cuts this frontier;

Thence a line south-eastwards to meet the southern shore of Lake Mohazi;

Thence the watershed between the Taruka and the Mkarange and continuing southwards to the north-eastern end of Lake Mugesera;

Thence the median line of this Lake and continuing southwards across Lake Sake to meet the Kagera;

Thence the course of the Kagera downstream to meet the western boundary of Bugufi;

Thence this boundary to its junction with the eastern boundary of Urundi;

Thence the eastern and southern boundary of Urundi to Lake Tanganyika.

The line described is shown on the attached British 1:1,000,000 map, G.S.G.S. 2932, Sheet Ruanda and Urundi.^{15a}

ARTICLE 2

Boundary Commissioners shall be appointed by His Britannic Majesty and His Majesty the King of the Belgians to trace on the spot the line described in Article 1 above.

In case any dispute should arise in connection with the work of these Commissioners, the question shall be referred to the Council of the League of Nations, whose decision shall be final.

The final report by the Commissioners shall give the definite description of this boundary as it has been actually demarcated on the ground; the necessary maps shall be annexed thereto and signed by the Commissioners. The report, with its annexes, shall be made in triplicate; one copy shall be deposited in the Archives of the League of Nations, one shall be kept by the Government of His Majesty the King of the Belgians, and one by the Government of His Britannic Majesty.

^{15a} Map not reproduced.

ARTICLE 3

The Mandatory shall be responsible for the peace, order and good government of the territory, and shall undertake to promote to the utmost the material and moral well-being and the social progress of its inhabitants. The Mandatory shall have full powers of legislation and administration.

ARTICLE 4

The Mandatory shall not establish any military or naval bases, nor erect any fortifications, nor organise any native military force in the territory except for local police purposes and for the defence of the territory.

ARTICLE 5

The Mandatory

- (i) Shall provide for the eventual emancipation of all slaves, and for as speedy an elimination of domestic and other slavery as social conditions will allow;
- (ii) Shall suppress all forms of slave trade;
- (iii) Shall prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration;
- (iv) Shall protect the natives from abuse and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour;
- (v) Shall exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

ARTICLE 6

The Mandatory shall in the framing of laws relating to the holding or transference of land take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-native[s] may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

ARTICLE 7

The Mandatory shall secure to all nationals of States Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect to entry into and residence in

the territory, the protection afforded to their person and property, the acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory shall ensure to all nationals of States Members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organise essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States Members of the League of Nations, but on such conditions as will maintain intact the authority of the local government.

The rights conferred by this Article extend equally to companies and associations organised in accordance with the law of any of the Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

ARTICLE 8

The Mandatory shall ensure complete freedom of conscience and the free exercise of all forms of worship, which are consonant with public order and morality.

Missionaries of all such religions shall be free to enter the territory, and to travel and reside therein, to acquire and possess property, to erect religious buildings, and to open schools throughout the territory.

The Mandatory shall, however, have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control.

ARTICLE 9

The Mandatory shall apply to the territory any general international conventions already existing, or which may be concluded hereafter with the approval of the League of Nations respecting the slave trade, the traffic in arms and ammunition, the liquor traffic, and the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation, railways, postal, telegraphic, and wireless communication, and industrial literary and artistic property. The Mandatory shall co-operate in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ARTICLE 10

The Mandatory shall be authorised to constitute the territory into a customs, fiscal and administrative union or federation with the adjacent territories under his own sovereignty or control; provided always that the measures adopted to that end do not infringe the provisions of this mandate.

ARTICLE 11

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information concerning the measures taken to apply the provisions of this mandate.

A copy of all laws and regulations made in the course of the year and affecting property, commerce, navigation or the moral and material well-being of the natives shall be annexed to this report.

ARTICLE 12

The consent of the Council of the League of Nations is required for any modification of the terms of this mandate provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority.

ARTICLE 13

If any dispute whatever should arise between the Members of the League of Nations relating to the interpretation or application of the present mandate, which cannot be settled by negotiations, this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

States, Members of the League of Nations, may likewise bring any claims on behalf of their nationals for infractions of their rights under this mandate before the said Court for decision.

The present copy shall be deposited in the Archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Germany.

Made at the day of

ANNEX B: DRAFT OF THE BRITISH MANDATE FOR PART OF
TOGOLAND

(Submitted for approval)

THE COUNCIL OF THE LEAGUE OF NATIONS.

WHEREAS by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28, 1919, Germany renounced in favour

of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein Togoland; and

WHEREAS the Principal Allied and Associated Powers agreed that the Governments of France and Great Britain should make a joint recommendation to the League of Nations as to the future of the said territory; and

WHEREAS the Governments of France and Great Britain have made a joint recommendation to the Council of the League of Nations that a mandate to administer in accordance with Article 22 of the Covenant of the League of Nations that part of Togoland lying to the west of the line agreed upon in the Declaration of July 10, 1919 referred to in Article 1 should be conferred upon His Britannic Majesty; and

WHEREAS by the terms of the said joint recommendation the Governments of France and Great Britain have proposed that the Mandate shall be formulated in the following terms; and

WHEREAS His Britannic Majesty has agreed to accept the Mandate in respect of the said territory and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions:

Hereby approves the terms of the said Mandate as follows:—

ARTICLE 1

The territory over which a mandate is conferred upon his Britannic Majesty comprises that part of the former colony of Togoland which lies to the west of the line laid down in the Declaration, signed on July 10, 1919, of which a copy is annexed hereto.¹⁶

The delimitation on the spot of this line shall be carried out in accordance with the provision of the said Declaration.

The final report of the Mixed Commission shall give the exact description of the boundary line as traced on the spot[;] maps signed by the Commissioners shall be annexed to the Report. This Report with its annexes shall be drawn up in triplicate, one of these shall be deposited in the Archives of the League of Nations, one shall be kept by His Britannic Majesty's Government and one by the Government of the French Republic.

ARTICLE 2

The Mandatory shall be responsible for the peace, order and good government of the territory, and for the promotion to the utmost of the material and moral well-being and the social progress of its inhabitants.

¹⁶ Not printed.

ARTICLE 3

The Mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications nor organise any native military force, except for local police purposes and for the defence of the territory.

ARTICLE 4

The Mandatory :—

- (i) Will provide for the eventual emancipation of all slaves and for as speedy an elimination of domestic and other slavery as social conditions will allow;
- (ii) Will suppress all forms of slave trade;
- (iii) will prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration;
- (iv) will protect the natives from abuse and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour;
- (v) will exercise a strict control over the traffic in arms and ammunition and the [sale] of spirituous liquors.

ARTICLE 5

In the framing of laws relating to the holding or transference of land the Mandatory will take into consideration native laws and customs, and will respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-natives may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

ARTICLE 6

The Mandatory will secure to all nationals of States Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect to entry into and residence in the territory, the protection afforded to their person and property, and acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order and on condition of compliance with the local law.

Further, the Mandatory will ensure to all nationals of States, Members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality, provided that the

Mandatory shall be free to organise essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States, Members of the League of Nations, but on such conditions as will maintain intact the authority of the local government.

The rights conferred by this article extend equally to companies and associations organised in accordance with the law of any of the Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

ARTICLE 7

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State, Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE 8

The Mandatory shall apply to the territory any general international conventions applicable to his contiguous territory.

ARTICLE 9

The Mandatory shall have full powers of administration and legislation in the area subject to the Mandate. This area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the following provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory subject to the mandate with such modifications as may be required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent possessions under his sovereignty or control.

ARTICLE 10

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information concerning the measures taken to apply the provisions of the present mandate.

ARTICLE 11

The consent of the Council of the League of Nations is required for any modifications of the terms of the present mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the Council.

ARTICLE 12

If any dispute whatever should arise between the Members of the League of Nations relating to the interpretation or application of this mandate which cannot be settled by negotiation, this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

The present copy shall be deposited in the Archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Members of the League.

ANNEX C: DRAFT OF THE BRITISH MANDATE FOR PART OF THE CAMEROONS

(Submitted for approval)

[Text the same, *mutatis mutandis*, as that of the draft British mandate for part of Togoland, printed in annex B, *supra*.]

ANNEX D: DRAFT OF THE FRENCH MANDATE FOR PART OF TOGOLAND

(Submitted for approval)

THE COUNCIL OF THE LEAGUE OF NATIONS:

WHEREAS by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein Togoland, and

WHEREAS the Principal Allied and Associated Powers agreed that the Governments of France and Great Britain should make a joint recommendation to the League of Nations as to the future of the said territory; and

WHEREAS the Governments of France and Great Britain have made a joint recommendation to the Council of the League of Nations that a mandate to administer in accordance with Article 22 of the Covenant of the League of Nations that part of Togoland lying to the east of the line agreed upon in the Declaration of July 10, 1919, of which mention is made in Article 1 below, should be conferred upon the French Republic; and

WHEREAS by the terms of the said joint recommendation the Governments of France and Great Britain have proposed that the Mandate should be formulated in the following terms; and

WHEREAS the French Republic has agreed to accept the Mandate in respect of the said territory and has undertaken to exercise it on behalf of the League of Nations;

Hereby approves the terms of the said Mandate as follows:—

ARTICLE 1

The territory over which a mandate is conferred upon France comprises that part of the former colony of Togoland which lies to the east of the line laid down in the Franco-British Declaration, signed on July 10, 1919, of which a copy is annexed hereto.¹⁷

The delimitation on the spot of this line shall be carried out in accordance with the provision of the said Declaration.

The final report of the Mixed Commission shall give the exact description of the boundary line as traced on the spot; maps signed by the Commissioners shall be annexed to the Report. This Report with its annexes shall be drawn up in triplicate, one of which shall be deposited in the Archives of the League of Nations, one shall be kept by the Government of the Republic and one by His Majesty's Britannic Government.

ARTICLE 2

The Mandatory shall be responsible for the peace, order and good government of the territory, and for the promotion to utmost of the material and moral well-being and the social progress of its inhabitants.

ARTICLE 3

The Mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications, nor organise any native military force except for local police purposes and for the defence of the territory.

It is understood, however, that the troops thus raised may, in the event of general war, be utilised to repulse an attack for the defence of the territory outside that over which the mandate is administered.

ARTICLE 4

The Mandatory:—

- (I) will provide for the eventual emancipation of all slaves and for as speedy an elimination of domestic and other slavery as social conditions will allow;

¹⁷ Not printed.

- (II) will suppress all forms of slave trade;
- (III) will prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration;
- (IV) will protect the natives from abuse and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour;
- (V) will exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

ARTICLE 5

In the framing of laws relating to the holding or transference of land the Mandatory will take into consideration native laws and customs, and will respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favor of non-natives may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

ARTICLE 6

The Mandatory will secure to all nationals of States, Members of the League of Nations, the same rights as are enjoyed in the territory by his own nationals in respect to entry into and residence in the territory, the protection afforded to their person and property, and acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory will ensure to all nationals of States, Members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organise essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States, Members of the League of Nations, but on such conditions as will maintain intact the authority of the local government.

The rights conferred by this Article extend equally to companies and associations organised in accordance with the law of any of the Members of the League of Nations, subject only to requirements of public order, and on condition of compliance with the local law.

ARTICLE 7

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE 8

The Mandatory shall apply to the territory any general international conventions applicable to his contiguous territory.

ARTICLE 9

The Mandatory shall have full powers of administration and legislation in the area subject to the Mandate. This area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the following provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory under the mandate subject to the modifications required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent possessions under his sovereignty or control.

ARTICLE 10

The Mandatory shall make an annual report to the Council of the League of Nations. This report shall contain full information concerning the measures taken to apply the provisions of the preceding articles.

ARTICLE 11

The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the Council.

ARTICLE 12

If any dispute whatever should arise between the Members of the League of Nations relating to the interpretation or application of this mandate which cannot be settled by negotiations this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

The present copy shall be deposited in the Archives of the League of Nations. Certified copies shall be forwarded by the Secretary General of the League of Nations to all Members of the League.

ANNEX E: DRAFT OF THE FRENCH MANDATE FOR PART OF THE CAMEROONS

(Submitted for approval)

[Text the same, *mutatis mutandis*, as that of the draft French mandate for part of Togoland, printed in annex D, *supra*.]

ANNEX F: [DRAFT OF THE BELGIAN MANDATE FOR EAST AFRICA]

ARTICLE I

The territory for which a mandate is conferred in [*on*] His Majesty the King of the Belgians (hereafter called the Mandatory Power) comprises that part of the territory of German East Africa situated to the west of the following line:—

From the point where the frontier between the Protectorate of Uganda and German East Africa crosses the River Mavumba in a south-easterly direction, a straight line extending (ending?) to the coast [*hill?*] (1640), about 15 kilometres to the S.S.W. of Mont Gabiro.

From there, a straight line in a southerly direction extending to the north bank of Lake Mohasi, where it forms a confluence with a river situated at a distance of about 2K.5, to the west of the confluence of the River Msilala.

If the railway line to the west of the River Kagera between Bugufi and Uganda approached the line defined above at less than 16 kilometres, the frontier would be moved back towards the west following a line at a distance of at least 16 kilometres from the line, always without extending beyond the line to the west joining the point at the end of Lake Mohasi to the summit of Mont Kivisa (2100) situated on the Uganda–German East Africa frontier at a distance of about 5 kilometres to the south-west of the point where the River Mavumba crosses this frontier.

From there, a line drawn in a south-easterly direction to the south bank of Lake Mohasi.

From there, a line separating the waters of the Rivers Taruka and Mkarange, extending towards the south as far as the north-easterly point of Lake Mugesera.

The dividing [*median*] line of Lake Mugesera extended towards the south across Lake Saake to the Kagera.

From there, the course of the Kagera defines it as far as the western boundary limit of the Bugufi.

From there, this limit (Boundary) as far as the point where it touches the eastern limit (boundary) of the Urundi.

From there, the eastern and southern limit (Boundary) of the Urundi as far as Lake Tanganyika.

The new Anglo-Belgian frontier, as above outlined, is indicated on the English map attached hereto, scale 1/1,000,000 G.S.G.S. 2932.¹⁸

ARTICLE II

The Mandatory shall be responsible for the peace, order and good government of the territory, and for the promotion to the utmost of the material and moral well-being and the social progress of its inhabitants.

ARTICLE III

The Mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications, nor organise any native military force except for local police purposes and for the defence of the territory.

ARTICLE IV

The Mandatory

- (i) will provide for the eventual emancipation of all slaves and for as speedy an elimination of domestic and other slavery as social conditions will allow;
- (ii) will suppress all forms of slave trade;
- (iii) will prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration;
- (iv) will protect the natives from abuse and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour;
- (v) will exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

ARTICLE V

In the framing of laws relating to the holding or transference of land the Mandatory will take into consideration native laws and customs, and will respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

ARTICLE VI

The Mandatory will secure to all nationals of States, Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect to entry into and residence in the

¹⁸ Map not reproduced.

territory, the protection afforded to their person and property, and acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory will ensure to all nationals of States, Members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organise essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States, Members of the League of Nations, but on such conditions as will maintain intact the authority of the local government.

The rights conferred by this Article extend equally to companies and associations organised in accordance with the law of any of the Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

ARTICLE VII

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE VIII

The Mandatory shall apply to the territories any general international conventions applicable to their contiguous territories.

ARTICLE IX

The Mandatory shall have full powers of administration and legislation in the area subject to the Mandate. This area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the following provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory under the mandate subject to the modifications required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent possessions under his sovereignty or control.

ARTICLE X

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information concerning the measures taken to apply the provisions of the present mandate.

ARTICLE XI

The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the Council.

ARTICLE XII

If any dispute whatever should arise between the Members of the League of Nations relating to the interpretation or application of this mandate which cannot be settled by negotiations, this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

The Present copy shall be deposited in the Archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Members of the League.

ANNEX G: JOINT RECOMMENDATION OF THE BRITISH AND FRENCH GOVERNMENTS AS TO THE FUTURE OF THE FORMER COLONIES OF TOGO AND THE CAMEROONS

By the terms of the decision of the Supreme Allied Council on May 7th, 1919, France and Great Britain were charged with the duty of coming to an agreement upon the future of Togo and the Cameroons, which they would recommend the League of Nations to adopt.

With this end in view they fixed, first of all, the limits of the areas to be brought within their respective spheres; this preliminary measure was the subject of the declarations signed in London on July 10, 1919,¹⁹ copies of which are attached.

The two Governments have also devoted themselves to the question of the political and administrative system to be applied in Togo and the Cameroons. The decision of the Supreme Council stated specifically that all the territories comprised in the former German Colonies other than Togo and the Cameroons, should be the subject of mandates. The conclusion might, therefore, be drawn that Togo and the Cameroons were not to be subjected to this regime.

¹⁹ Providing for the delimitation of frontiers in Togoland and the Cameroons; not printed.

On the other hand Article 22 of the Treaty of Versailles of June 28, 1919, appeared to apply the mandate system to all the German possessions outside Europe.

In view of this stipulation the two Governments animated with the desire to arrive at a mutual understanding, have come to the conclusion that the plan which they ought to recommend to the League of Nations is that the territories of Togo and the Cameroons should be placed under a mandate, but that the terms of the mandate should take into account, firstly the interests of the natives, up till now artificially separated from the areas occupied by people of the same race, and, secondly, the peculiar features of the areas to which the mandates will apply, particularly the administrative difficulties which would be created by any attempt to constitute these areas into separate and distinct political units.

The Government of the French Republic, and the Government of His Britannic Majesty have, therefore, and in accordance with the spirit of Article 22 of the Covenant of the League of Nations prepared the four accompanying drafts, two of which apply to the Cameroons and two to Togoland.²⁰

They venture to hope that when the Council has taken note of them it will consider that the drafts have been prepared in conformity with the principle laid down in the said Article 22, and will approve them accordingly.

800.01 M 31/35

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

No. 4426

LONDON, April 1, 1921.

[Received April 11.]

SIR: I have the honor to transmit herewith, for the information of the Department, copies, in triplicate, of an official White Paper (Cmd. 1195) embodying the Franco-British Convention of December 23, 1920, on Certain Points Connected with the Mandates for Syria and the Lebanon, Palestine and Mesopotamia.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure]

Franco-British Convention of December 23, 1920, Regarding the Mandates for Syria and the Lebanon, Palestine, and Mesopotamia

The British and French Governments, respectively represented by the undersigned Plenipotentiaries, wishing to settle completely the problems raised by the attribution to Great Britain of the man-

²⁰ See annexes B, C, D, and E, *supra*.

dates for Palestine and Mesopotamia and by the attribution to France of the mandate over Syria and the Lebanon, all three conferred by the Supreme Council at San Remo, have agreed on the following provisions:—

ARTICLE 1

The boundaries between the territories under the French mandate of Syria and the Lebanon on the one hand and the British mandates of Mesopotamia and Palestine on the other are determined as follows:—

On the east, the Tigris from Jeziret-ibn-Omar to the boundaries of the former vilayets of Diarbekir and Mosul.

On the south-east and south, the aforesaid boundary of the former vilayets southwards as far as Roumelan Koeui; thence a line leaving in the territory under the French mandate the entire basin of the western Kabur and passing in a straight line towards the Euphrates, which it crosses at Abu Kemal, thence a straight line to Imtar to the south of Jebul Druse, then a line to the south of Nasib on the Hedjaz Railway, then a line to Semakh on the Lake of Tiberias, traced to the south of the railway, which descends towards the lake and parallel to the railway. Deraa and its environs will remain in the territory under the French mandate; the frontier will in principle leave the valley of the Yarmuk in the territory under the French mandate, but will be drawn as close as possible to the railway in such a manner as to allow the construction in the valley of the Yarmuk of a railway entirely situated in the territory under the British mandate. At Semakh the frontier will be fixed in such a manner as to allow each of the two High Contracting Parties to construct and establish a harbour and railway station giving free access to the Lake of Tiberias.

On the west, the frontier will pass from Semakh across the Lake of Tiberias to the mouth of the Wadi Massadyie. It will then follow the course of this river upstream, and then the Wadi Jeraba to its source. From that point it will reach the track from El Kuneitra to Banias at the point marked Skek, thence it will follow the said track, which will remain in the territory under the French mandate as far as Banias. Thence the frontier will be drawn westwards as far as Metullah, which will remain in Palestinian territory. This portion of the frontier will be traced in detail in such a manner as to ensure for the territory under the French mandate easy communication entirely within such territory with the regions of Tyre and Sidon, as well as continuity of road communication to the west and to the east of Banias.

From Metullah the frontier will reach the watershed of the valley of the Jordan and the basin of the Litani. Thence it will follow this watershed southwards. Thereafter it will follow in principle the watershed between the Wadis Farah-Houroun and Kerkerah, which will remain in the territory under the British mandate, and the Wadis El Doubleh, El Aioun and Es Zerka, which will remain in the territory under the French mandate. The frontier will reach the Mediterranean Sea at the port of Ras-el-Nakura, which will remain in the territory under the French mandate.

ARTICLE 2

A commission shall be established within three months from the signature of the present convention to trace on the spot the boundary line laid down in article 1 between the French and British mandatory territories. This commission shall be composed of four members. Two of these members shall be nominated by the British and French Governments respectively, the two others shall be nominated, with the consent of the mandatory Power, by the local Governments concerned in the French and British mandatory territories respectively.

In case any dispute should arise in connection with the work of the commission, the question shall be referred to the Council of the League of Nations, whose decision shall be final.

The final reports by the commission shall give the definite description of the boundary as it has been actually demarcated on the ground; the necessary maps shall be annexed thereto and signed by the commission. The reports, with their annexes, shall be made in triplicate; one copy shall be deposited in the archives of the League of Nations, one copy shall be kept by the mandatory, and one by the other Government concerned.

ARTICLE 3

The British and French Governments shall come to an agreement regarding the nomination of a commission, whose duty it will be to make a preliminary examination of any plan of irrigation formed by the Government of the French mandatory territory, the execution of which would be of a nature to diminish in any considerable degree the waters of the Tigris and Euphrates at the point where they enter the area of the British mandate in Mesopotamia.

ARTICLE 4

In virtue of the geographic and strategic position of the island of Cyprus, off the Gulf of Alexandretta, the British Government

agrees not to open any negotiations for the cession or alienation of the said island of Cyprus without the previous consent of the French Government.

ARTICLE 5

1. The French Government agrees to facilitate by a liberal arrangement the joint use of the section of the existing railway between the Lake of Tiberias and Nasib. This arrangement shall be concluded between the railway administrations of the areas under the French and British mandates respectively as soon as possible after the coming into force of the mandates for Palestine and Syria. In particular the agreement shall allow the administration in the British zone to run their own trains with their own traction and train crews over the above section of the railway in both directions for all purposes other than the local traffic of the territory under the French mandate. The agreement shall determine at the same time the financial, administrative and technical conditions governing the running of the British trains. In the event of the two administrations being unable to reach an agreement within three months from the coming into force of the two above-mentioned mandates, an arbitrator shall be appointed by the Council of the League of Nations to settle the points as to which a difference of opinion exists and immediate effect shall be given as far as possible to those parts of the agreement on which an understanding has already been reached.

The said agreement shall be concluded for an indefinite period and shall be subject to periodical revision as need arises.

2. The British Government may carry a pipe line along the existing railway track and shall have in perpetuity and at any moment the right to transport troops by the railway.

3. The French Government consents to the nomination of a special commission, which, after having examined the ground, may readjust the above-mentioned frontier line in the valley of the Yarmuk as far as Nasib in such a manner as to render possible the construction of the British railway and pipe line connecting Palestine with the Hedjaz Railway and the valley of the Euphrates, and running entirely within the limits of the areas under the British mandate. It is agreed, however, that the existing railway in the Yarmuk valley is to remain entirely in the territory under the French mandate. The right provided by the present paragraph for the benefit of the British Government must be utilised within a maximum period of ten years.

The above-mentioned commission shall be composed of a representative of the French Government and a representative of the

British Government, to whom may be added representatives of the local Governments and experts as technical advisers to the extent considered necessary by the British and French Governments.

4. In the event of the track of the British railway being compelled for technical reasons to enter in certain places the territory under French mandate, the French Government will recognise the full and complete extra-territoriality of the sections thus lying in the territory under the French mandate, and will give the British Government or its technical agents full and easy access for all railway purposes.

5. In the event of the British Government making use of the right mentioned in paragraph 3 to construct a railway in the valley of the Yarmuk, the obligations assumed by the French Government in accordance with paragraphs 1 and 2 of the present article will determine three months after the completion of the construction of the said railway.

6. The French Government agrees to arrange that the rights provided for above for the benefit of the British Government shall be recognised by the local Governments in the territory under the French mandate.

ARTICLE 6

It is expressly stipulated that the facilities accorded to the British Government by the preceding articles imply the maintenance for the benefit of France of the provisions of the Franco-British Agreement of San Remo regarding oil.²¹

ARTICLE 7

The French and British Governments will put no obstacle in their respective mandatory areas in the way of the recruitment of railway staff for any section of the Hedjaz Railway.

Every facility will be given for the passage of employees of the Hedjaz Railway over the British and French mandatory areas in order that the working of the said railway may be in no way prejudiced.

The French and British Governments agree, where necessary, and in eventual agreement with the local Governments, to conclude an arrangement whereby the stores and railway material passing from one mandatory area to another and intended for the use of the Hedjaz Railway will not for this reason be submitted to any additional customs dues and will be exempted so far as possible from customs formalities.

²¹ *Foreign Relations*, 1920, vol. II, p. 655.

ARTICLE 8

Experts nominated respectively by the Administrations of Syria and Palestine shall examine in common within six months after the signature of the present convention the employment, for the purposes of irrigation and the production of hydroelectric power, of the waters of the Upper Jordan and the Yarmuk and of their tributaries, after satisfaction of the needs of the territories under the French mandate.

In connection with this examination the French Government will give its representatives the most liberal instructions for the employment of the surplus of these waters for the benefit of Palestine.

In the event of no agreement being reached as a result of this examination, these questions shall be referred to the French and British Governments for decision.

To the extent to which the contemplated works are to benefit Palestine, the Administration of Palestine shall defray the expenses of the construction of all canals, weirs, dams, tunnels, pipe lines and reservoirs or other works of a similar nature, or measures taken with the object of reforestation and the management of forests.

ARTICLE 9

Subject to the provisions of Articles 15 and 16 of the mandate for Palestine, of Articles 8 and 10 of the mandate for Mesopotamia, and of Article 8 of the mandate for Syria and the Lebanon, and subject also to the general right of control in relation to education and public instruction, of the local Administrations concerned, the British and French Governments agree to allow the schools which French and British nationals possess and direct at the present moment in their respective mandatory areas to continue their work freely; the teaching of French and English will be freely permitted in these schools.

The present article does not in any way imply the right of nationals of either of the two parties to open new schools in the mandatory area of the other.

The present convention has been drawn up in English and French, each of the two texts having equal force.

Done at Paris, the 23rd December, 1920, in a double copy, one of which will remain deposited in the archives of the Government of the French Republic, and the other in those of the Government of His Britannic Majesty.

HARDINGE OF PENSHURST
G. LEYGUES

FEDERATION OF THE CENTRAL AMERICAN REPUBLICS ²²

Signing of the Pact of Union, January 19, 1921, by Costa Rica, Guatemala, Honduras, and Salvador; Refusal by Costa Rica to Ratify—Adoption of the Constitution, September 9—Request for Recognition of the Federation by the United States—Revolution in Guatemala,²³ and Danger of the Federation's Disruption—Representations by the United States to Guatemala, Honduras, and Salvador, Deprecating an Armed Conflict

813.00/1040 : Telegram

The Minister in Nicaragua (Jefferson) to the Acting Secretary of State

MANAGUA, January 10, 1921—3 p.m.

[Received January 11—12:20 p.m.]

3. Department's January 7, 5 p.m.²⁴ Nicaraguan Government the other day sent final instructions to its delegates to the effect that it proposed to adhere strictly to its obligations in the Bryan-Chamorro treaty²⁵ and the other Central American States must accede to this, without reservation for future diplomatic representations or arbitration, before Nicaragua will subscribe to Central American Union Pact. Nicaraguan Government feels that it would jeopardize its interests and would place it in a very false position with the United States to do otherwise.

JEFFERSON

813.00/1042 : Telegram

The Chargé in Costa Rica (Thurston) to the Acting Secretary of State

SAN JOSÉ, January 13, 1921—9 a.m.

[Received January 14—2:25 p.m.]

3. Legation's urgent 24, December 29, 5 p.m.²⁶ Yesterday's press announced Nicaragua's refusal adhere to Conference's resolution, and suggestion by Nicaragua that remaining four countries form union of which it should have privilege of later entry.

Last evening it was announced that Guatemalan delegation, in view of Nicaraguan attitude, had proposed certain amendments to

²² For the convocation and early sessions of the Central American Conference, see *Foreign Relations*, 1920, vol. I, pp. 163 ff.

²³ For further correspondence on the revolution, see vol. II, pp. 178 ff.

²⁴ Not printed.

²⁵ *Foreign Relations*, 1916, p. 849; for decisions of the Central American Court of Justice in the cases of Costa Rica and Salvador against Nicaragua, instituted because of the signing of this treaty, see *ibid.*, p. 862, and *ibid.*, 1917, p. 1101.

²⁶ *Ibid.*, 1920, vol. I, p. 178.

pact which respect Nicaragua's treaty obligations but reserve to other countries affected by provisions of such treaties the right to independent action. This arrangement said to be agreeable to all parties but in absence of necessary instructions to the Nicaraguan delegates no final action possible.

Further information not now obtainable. Will report fully at earliest possible moment.

THURSTON

813.00/1043 : Telegram

The Chargé in Costa Rica (Thurston) to the Acting Secretary of State

SAN JOSÉ, January 14, 1921—5 p.m.

[Received January 15 (?)—2:50 p.m.]

4. Guatemalan delegates have informed me that Pact of Union is now being finally drafted and that it will undoubtedly be signed on Monday or Tuesday. They state that it will not be made public until all delegates have returned to their respective capitals but that for the Department's confidential use a copy of draft will be given me when completed.

Guatemalan motion which seems to have induced agreement is based on alleged declaration by American Senate²⁷ when ratifying the Bryan Chamorro Treaty that it was understood not to affect any existing right of Costa Rica, Salvador and Honduras.

THURSTON

813.00/1045 : Telegram

The Chargé in Costa Rica (Thurston) to the Acting Secretary of State

SAN JOSÉ, January 16, 1921—11 a.m.

[Received January 21—11:40 a.m.]

7. My 4, January 14, 5 p.m. Nicaraguan Minister accompanied by secretary of Nicaragua delegation called last evening to inform me that Nicaragua would not sign pact and would withdraw from Conference. He said that other delegates might dissolve Conference placing all blame for failure on Nicaragua although he believed demand for union in at least two countries might prevent such action. He further stated that union movement among common people is sincere but that governing motive for many leaders is purely anti-American.

²⁷ For the text of this declaration, see *Foreign Relations*, 1916, p. 851.

Costa Rican Minister for Foreign Affairs last night assured me pact would be signed by remaining delegates but it is believed that Costa Rica will grasp the opportunity to enter union. Anticipating possible decision remaining delegates to sign pact next Thursday, am sending by second cablegram ²⁸ *résumé* of pact, of which copy was furnished me by Nicaraguan delegate.

THURSTON

813.00/1047 : Telegram

The Chargé in Costa Rica (Thurston) to the Acting Secretary of State

SAN JOSÉ, January 19, 1921—9 p.m.

[Received January 22—10:55 a.m.]

9. My 7, January 16, 11 a.m. Central American Union Pact formally signed this afternoon by Guatemala, Salvador, Honduras and Costa Rica.

THURSTON

813.00/1050

The Costa Rican Minister (Beeche) to the Secretary of State

[Translation]

WASHINGTON, February 1, 1921.

MR. SECRETARY: It affords me great pleasure to send you herewith a copy of the covenant of the Central American Union signed at San José, Costa Rica, on the 19th of January, 1921, by the Republics of Costa Rica, Guatemala, Honduras, and Salvador.

Although the said covenant is barely a project at this date, since it has not yet been approved by the Congresses in the respective countries, I have considered it to be my duty to communicate it at once in compliance with special instructions of my Government to the Government of the United States of America through your worthy medium, as a mark of most deserved consideration and as the very natural consequence of the friendly confidence that has always ruled the international relations of our two countries.

I avail myself [etc.]

OCTAVIO BEECHE

[Enclosure—Translation ²⁹]

Pact of Union of the Central American Republics, Signed at San José, Costa Rica, January 19, 1921

The Governments of the Republics of Guatemala, Salvador, Honduras, and Costa Rica, regarding it as a high patriotic duty to

²⁸ Not printed.

²⁹ File translation revised.

bring about as far as possible the reconstruction of the Federal Republic of Central America upon bases of justice and equality that will guarantee peace, maintain harmony among the States, insure the benefits of liberty, and promote the general progress and welfare, have seen fit to conclude a treaty of union achieving that end, and to that effect have appointed as plenipotentiary delegates, as follows:

The Government of Guatemala the Most Excellent Licentiate Don Salvador Falla and Don Carlos Salazar;

The Government of Salvador the Most Excellent Doctors Don Reyes Arrieta Rossi and Don Miguel T. Molina;

The Government of Honduras the Most Excellent Doctors Don Alberto Uclés and Don Mariano Vásquez;

And the Government of Costa Rica the Most Excellent Licentiate Don Alejandro Alvarado Quirós and Don Cleto González Víquez;

Who, after communicating to one another their respective full powers, which they found to be in good and due form, have agreed upon the following stipulations:

ARTICLE I

The Republics of Guatemala, Salvador, Honduras, and Costa Rica join in a perpetual and indissoluble union, and shall henceforth constitute a sovereign and independent nation, the name of which shall be Federation of Central America.

It shall be the right and duty of the federal power to maintain the union, and, in accordance with the Federal Constitution, to preserve internal order in the States.

ARTICLE II

The four States shall convene through Deputies in a Constituent National Assembly, and they accept henceforth as the supreme law the Constitution that may be framed by the said Assembly in accordance with the stipulations of this treaty.

ARTICLE III

In so far as it may be consistent with the Federal Constitution, each State shall preserve its autonomy and independence in the handling and direction of its domestic affairs, and shall also retain all the powers that are not vested in the Federation by the Federal Constitution.

The Constitutions of the States shall remain in force in so far as they do not conflict with the provisions of the Federal Constitution.

ARTICLE IV

So long as the Federal Government, through diplomatic action, shall not have obtained the modification, derogation, or substitution of the treaties in force between the States of the Federation and foreign nations, each State shall respect and continue faithfully to observe the treaties that bind it to any foreign nation or foreign nations to the full extent implied in the existing agreements.

ARTICLE V

The Constituent National Assembly, in framing the Federal Constitution, shall respect the following bases:

(a) There shall be a Federal District under the direct rule of the Federal Government. The Assembly shall designate and mark out the territory that is to constitute this District, and within that area shall designate the town or place that is to be the political capital of the Federation. The State or States from which territory is taken to constitute the Federal District here and now convey it gratuitously to the Federation.

(b) The Government of the Federation shall be republican, popular, representative, and responsible. Sovereignty shall reside in the Nation. The public powers shall be limited and must be exercised in accordance with the Constitution. There shall be three powers: the executive, the legislative, and the judicial.

(c) The executive power shall be exercised by a Federal Council composed of delegates elected by the people. Each State shall elect a principal and an alternate, of 40 years of age or more and native citizens of the State which may elect them. The term of the Council shall be 5 years.

The delegates and their alternates shall reside in the federal capital. The alternates shall attend the meetings of the Council without a vote; they shall cast a vote, however, whenever the meeting is not attended by their principals.

In order to impart validity to the action of the Council, it is necessary that all the States be represented therein. The decisions shall be arrived at by a plurality vote, except in cases where the Constitution may call for a greater majority. In case of a tie, the President shall cast two votes.

The Council shall elect from among the delegates a President and a Vice President, whose term of office shall be one year. The President of the Council may not be reelected for the year immediately following.

The President of the Council shall be regarded as President of the Federation, but he shall always act in the name, and by a resolution or direction, of the Federal Council.

The Council shall apportion among its members in the manner it may deem most appropriate the handling of public affairs, and it may put any one or more of the alternates in charge of a department or more, as it may deem expedient. The Constitution shall

determine the form in which foreign relations are to be conducted, and shall complete the organization of the executive power.

(*d*) The legislative power shall be vested in two houses: the Senate and the Chamber of Deputies. The Senate shall consist of three Senators from each State, elected by the Congress thereof. The Senators shall be 40 years of age or more and citizens of any one of the States. Their term shall be 6 years, and they shall be renewed every other year in thirds. The Chamber of Deputies shall consist of Representatives elected by the people, one Deputy for every 100,000 inhabitants or fraction of more than 50,000. The Constituent Assembly shall determine the number of deputies to be elected by each State until the general census of the Federation is taken.

Senators and Deputies may be reelected indefinitely. In each house three-fourths of the whole number of members shall form the quorum.

No law shall be valid unless it has been approved in the separate houses, by a plurality of votes in the Chamber of Deputies and by two-thirds of the votes of the Senators, and unless it has been sanctioned by the executive as the Federal Constitution may provide.

(*e*) The judicial power shall be exercised by a Supreme Court of Justice and by the lower courts that may be established by law. The Senate, from a list of 21 names submitted by the federal executive, shall elect seven incumbent magistrates, who shall constitute the court, and three alternates to fill the temporary absence of the incumbents. Vacancies shall be filled by new elections of incumbents or alternates. The magistrates shall not be removed from office unless the removal be authorized by a judicial sentence.

The Supreme Court shall have jurisdiction in disputes to which the Federation is a party; the legal controversies that may arise between two or more States; the conflicts that may occur between the powers of any one State or of the Federation as to the constitutionality of their acts; and of all other matters which may be referred to it by the Federal Constitution or the organic law.

The States having pending questions among themselves as to boundaries or the validity or execution of judgments or awards made before the date of this treaty, shall be at liberty to refer them to arbitration. The Federal Court may take cognizance of such questions in the capacity of arbitrator, if the States concerned should refer them to its decision.

(*f*) The Federation guarantees to every inhabitant freedom of thought and conscience. There shall be no legislation on religious subjects. In all the States toleration of cults that are not against morals or public policy shall be an obligatory principle.

(*g*) The Federation recognizes the principle that human life is inviolable as to political and like offenses, and guarantees all men equality before the law and the protection that the States must grant to destitute classes, as also to the proletariat.

(*h*) The Federation guarantees the freedom of teaching.

Primary instruction shall be compulsory, and that which is given in public schools shall be free, under the direction and at the expense of the States.

Colleges of secondary instruction may be founded and supported by the Federation, the States, municipal governments, and private persons.

The Federation shall create as soon as possible a national university, and shall give preference, with regard to their early establishment, to the sections of agriculture, industry, commerce, and mathematical sciences.

(i) The Federation likewise guarantees in every State the respect of individual rights, as also the freedom of suffrage and the rotation in power.

(j) The Army is an institution intended for national defense and the maintenance of peace and public order; it is essentially a passive body and may not engage in debates.

Soldiers on active duty shall have no right to vote.

The Army shall be exclusively under the orders of the Federal Council. The States shall not maintain any force other than that of police for the maintenance of public order.

The garrisons which may be kept permanently or temporarily by the Federation in any State shall be under the command of national chiefs that the Council shall freely appoint and remove; but if in any State there should occur a subversive movement, or serious grounds may exist to apprehend a grave disturbance, those forces shall place themselves at the command of the Government of the State. If those forces should be insufficient to suppress the rebellion, the Government of the State shall ask for, and the Council shall supply, adequate reinforcements.

Military service, garrison duty, and military instruction shall be regulated by law so as to be governed by fixed rules.

The Council shall have the free disposal of the armament and war material that may now exist in the States, after those States shall have been supplied with the amount needed for the police force.

The States acknowledge it to be necessary and expedient that the Federation should reduce armaments and armies to the strictly necessary so as to return labor to farming and manufacturing and to devote to the general good the excessive sums spent for military purposes.

(l) [*sic*] The Federal Government shall administer the national public finances, which shall be separate from those of the States.

The law shall create federal revenues and taxes.

(m) The States shall continue the service of their present domestic and foreign debts. It shall be the duty of the Federal Government to see that the service is faithfully performed and that the revenues pledged for that purpose are applied thereto.

Henceforward none of the States shall contract for or issue foreign loans without being authorized by a law of the State ratified by a federal law, nor shall it enter into contracts that may in any way compromise its sovereignty or independence or the integrity of its territory.

(n) The Federation shall not contract for or issue foreign loans without being authorized to do so by law approved by two-thirds of the votes in the Chamber of Deputies and three-fourths of the votes in the Senate.

(o) The Constitution may set a term after which the ability to read and write may be set up as an essential requisite for the exercise of the right of suffrage in the elections of federal authorities.

(p) The Constitution shall lay down the course through which amendments of its dispositions may be ordered. However, if the reform should make any change in any one of the bases set forth in this article, it shall be absolutely necessary, in addition to the other general requirements of the Constitution, that the legislatures of all the States shall give their consent.

(q) The Constitution shall determine and specify the subjects that shall be exclusive matter for federal legislation.

The Constituent National Assembly, in framing the Constitution, shall complete the plan and purpose of the said Constitution, developing the foregoing bases, but in no case conflicting with them.

Immediately after the enactment of the Constitution, the Assembly shall pass the complementary laws concerning the freedom of the press, habeas corpus, and state of siege, which shall be held as part of the Federal Constitution.

ARTICLE VI

The Constituent National Assembly referred to in article II of this treaty shall consist of 15 Deputies for each State, who shall be elected by their respective Congresses. In order to be a Deputy one must be 25 years old or more and a citizen of any one of the five States of Central America.

The Deputies shall enjoy immunity for their persons and property from the moment when they are declared elected by the Congress of a State until one month after the sessions of the Assembly are closed.

ARTICLE VII

Three-fifths of the total number of Deputies shall form a quorum of the Assembly. The vote shall be cast by States. If one or more Deputies of one State should be absent, the Deputy or Deputies present shall assume the complete representation of the State.

If the Deputies of one State should disagree, the vote of the majority of the Deputies shall be regarded as the vote of the State, and in case of a tie, it shall be regarded as concurring in the majority vote of the other States; or, if there should be a tie among those States themselves, that which agrees with the majority of the personal votes of the Deputies shall prevail. The decisions of the Assembly shall be taken on a majority vote of the States.

ARTICLE VIII

For the performance of these stipulations, there is instituted here and now a Provisional Federal Council consisting of a delegate from each State. The said Council shall take charge of the duty of

ordering all the measures preliminary to the organization of the Federation and its initial government and especially that of calling the Constituent National Assembly; of promulgating the Constitution, constituent laws, and other resolutions passed by the Assembly; of issuing appropriate orders to have the States elect in good time their delegates to the Council, Senate, and Chamber of Deputies; and finally of giving place to the Federal Council, whereupon its functions shall terminate.

ARTICLE IX

Delegates to the Provisional Council must be 40 years old or more and citizens of the State by which they are elected. They will enjoy immunity for their persons and property from the moment when they are elected until one month after they retire from their office. They shall in addition enjoy in the State where they perform their duties all the privileges and immunities which by law or usage are granted to the heads of diplomatic missions.

ARTICLE X

The Congress of each State, immediately upon approving this treaty, shall elect the delegate that belongs to it in the Provisional Council, and through the proper channel give notice of that election to the Central American International Office. That Office in turn will communicate to the Governments and also to the elected delegates the fact of its having received the ratification of three States, to the end that within the time stated hereafter the delegates may meet and begin their labors.

ARTICLE XI

The Provisional Federal Council shall meet in the city of Tegucigalpa, capital of Honduras, not later than 30 days after the third ratification of this covenant shall have been deposited in the Central American International Office.

ARTICLE XII

In order to impart validity to the acts of the Provisional Council, the presence of not less than three delegates shall be required.

ARTICLE XIII

The Provisional Council shall elect a President and a Secretary, who shall sign all the papers needed. The correspondence shall be conducted by the Secretary.

ARTICLE XIV

When the fourth ratification takes place, the Central American International Office, or the Provisional Federal Council, if still in session, shall call upon the delegate concerned to join the Provisional Council.

ARTICLE XV

The Congress of each State, at the same time it elects its delegate to the Provisional Council, in accordance with the provision in article X of this treaty, shall elect the Deputies to the Constituent Assembly that belong to the State.

ARTICLE XVI

After the Deputies to the Constituent Assembly shall have been elected, the Minister of Foreign Affairs of the State concerned shall so notify the Central American International Office, and issue the proper credentials to the Deputies that have been elected.

ARTICLE XVII

After the Central American International Office shall have informed the Provisional Federal Council of the election of the Deputies by three States at least, the Provisional Federal Council shall call the Constituent National Assembly so that it may organize in the city of Tegucigalpa on the date set by the decree calling the Assembly, which shall be made known by telegraph to the Ministry of Foreign Affairs of each State and to each Deputy individually not less than 30 days in advance. The Provisional Council shall see that the Constituent Assembly shall organize not later than the 15th of September, 1921, which is the centennial of the political emancipation of Central America.

ARTICLE XVIII

It will be sufficient that three of the contracting States ratify this treaty to have it considered as final and binding among them and to have it carried into effect. The State that should not approve the covenant may, however, join the Federation at any time it applies therefor, and the Federation shall admit it without any other formality than the presenting of a law approving this treaty, the Federal Constitution, and the constituent laws. In that event, the Federal Council and the two legislative houses shall be enlarged in the proper degree.

ARTICLE XIX

The contracting States sincerely regret that the sister Republic of Nicaragua does not desire to join the Federation of Central America. If the said Republic should later decide to join the union, the Federation will extend the greatest facilities for its joining, in the treaty that may be made for that purpose.

In any event, the Federation will continue to consider and treat her as a part of the Central American family just as it will any State that for some reason or other should not ratify this covenant.

ARTICLE XX

Each State shall deliver to the Provisional Council the moneys that may be named by it to defray the expenses incurred in the discharge of its mission, and shall determine and pay their salaries to the several constituent Deputies.

ARTICLE XXI

The present treaty shall be submitted in each State as soon as possible to the legislative approval that its Constitution may require, and the ratification shall be immediately notified to the Central American International Office, to which a copy shall be sent in the customary form. On receipt of the copy of that ratification, the aforesaid Office shall so advise the other States, and the notice shall be held and shall have the same value as an exchange.

Done at San José, Costa Rica, in quadruplicate, on the 19th day of January, 1921.

813.00/1061

The Chargé in Honduras (Spencer) to the Secretary of State

No. 70

TEGUCIGALPA, *February 15, 1921.*

[Received March 3.]

SIR: I have the honor to enclose copy with translation of a Foreign Office note, received today,³⁰ in which I am informed that the Covenant of the Central American Federation has been approved by the President and ratified by the National Congress. The dates of the above ceremonies are given in detail in the two enclosed notes.³⁰

I have the honor also to enclose copies of the Official Gazette under date of February 15, last [1921],³⁰ in which the minute details and terms of the treaty are set forth.

I have [etc.]

WILLING SPENCER

³⁰ Not printed.

813.00/1057 : Telegram

*The Minister in Salvador (Jay) to the Secretary of State*SAN SALVADOR, *February 23, 1921—5 p.m.*

[Received February 24—12:53 p.m.]

9. Pact of the Union of the four Central American States was ratified today by the National Congress.

JAY

813.00/1069

The Guatemalan Minister (Bianchi) to the Secretary of State[Translation ²¹]WASHINGTON, *April 8, 1921.*

YOUR EXCELLENCY: I have the honor to inform Your Excellency that I have received a cablegram from the Minister of Foreign Affairs of Guatemala, informing me that the Pact of Union of Central America, signed on January 19, 1921, by the plenipotentiaries of Costa Rica, Honduras, Guatemala, and Salvador, at San José, Costa Rica, was ratified on the 6th of this month by the National Legislative Assembly of Guatemala.

In accordance with the provisions of article 18 of that pact, having been previously ratified by the Assemblies of Honduras and Salvador, it went into effect on that date, the Federation of Central America being provisionally constituted of Honduras, Salvador and Guatemala.

With my high respects [etc.]

J. BIANCHI

816.00/326

The Chargé in Salvador (Arnold) to the Secretary of State

[Extract]

No. 55

SAN SALVADOR, *June 3, 1921.*

[Received June 23.]

SIR:

The Pact of the Union which was signed January 19th, by Guatemala, Honduras, Costa Rica and El Salvador, creating a Federation of Central America was sent by the Minister for Foreign

²¹ File translation revised.

Affairs of El Salvador to the League of Nations for formal registration so that it may receive international endorsement.

I have [etc.]

FRANK D. ARNOLD

813.00/1088

The Honduran Minister of Foreign Affairs (Uclés) to the Secretary of State

[Translation ²²]

TEGUCIGALPA, June 16, 1921.

[Received July 18.]

YOUR EXCELLENCY: On the 19th of January of the current year there was signed in the city of San José, Costa Rica, a compact for the union of Central America, by the plenipotentiary delegates of the Governments of Guatemala, Salvador, Honduras, and Costa Rica, which compact has already been ratified by the signatory Governments, with the exception of the last mentioned; and as the deposit of the third ratification took place on May 12 last, the compact has gone into force in accordance with its article XVIII.

In compliance with the provisions of article XI of the said compact of union, the Central American Provisional Federal Council was installed in this city on the 13th instant, being composed of the delegates from Guatemala, Salvador, and Honduras, Doctors José Vicente Martínez, Francisco Martínez Suárez, and Dionisio Gutiérrez, respectively. This Council elected as its President the delegate from Guatemala, Dr. Martínez, and as its Secretary the delegate from Salvador, Dr. Martínez Suárez. In accordance with article XVII of the compact, it decided to convoke the National Constituent Assembly to meet in this city on July 20 next for the purpose of signing the Federal Constitution on September 15 of this year, the date of the centenary of our independence. The Council likewise resolved to make known its solemn installation, through this Department, to the chancelleries of the mother country, Spain, of the elder sister of this continent, the United States of America, and of the other nations of the New World; also to urge the Government of Nicaragua to join the aforesaid compact.

And in fulfillment of the resolution of the Council, I take pleasure in communicating the foregoing to Your Excellency for the information of your enlightened Government.

²² File translation revised.

I am enclosing to Your Excellency herewith a copy of *La Gaceta*,³³ the official newspaper of this Government, in which the compact in question appears.

I avail myself [etc.]

ALBERTO UCLÉS

813.00/1079 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, June 22, 1921—8 a.m.

[Received June 23—9 a.m.]

102. Congress last evening by 20 to 19 votes rejected majority report on Pact of Union of Central America.³⁴ Because of doubt as to one vote a second ballot may be held today in which event majority report will be rejected by at least 22 to 20 votes.

Majority report on pact declares union desirable and calls for election August 1 of representatives to constituent assembly³⁵ to meet August 8; minority report declares Pact of Union premature and calls for postponement of action concerning it until Congress convenes in next ordinary sessions.

Even after positive rejection majority report the minority report may be voted on and accepted. Therefore action of Congress now need not mean definite rejection of union by Costa Rica.

THURSTON

813.00/1081 : Telegram

The Acting Secretary of State to the Honduran Minister of Foreign Affairs (Uclés)

WASHINGTON, June 25, 1921.

Your telegram of the 18th³³ received. Greatly appreciate Your Excellency's courtesy informing me organization of the Central American Provisional Federal Council and calling of the Constitutional Assembly. Please accept assurances my highest consideration.

FLETCHER

³³ Not printed.

³⁴ A two-thirds majority was required for acceptance.

³⁵ Assembly required by Costa Rican law to be set up for the consideration of any treaty of union.

813.00/1095

The Chargé in Honduras (Spencer) to the Secretary of State

[Extract]

No. 169

TEGUCIGALPA, *July 21, 1921.*

[Received August 8.]

SIR: I have the honor to report that yesterday afternoon there took place in the National Theatre of this capital, before a large and distinguished audience, the official inauguration of the National Constituent Assembly of the Federation of Central America.

At a preliminary session held the day before, the following officers were elected: President, Dr. Policarpo Bonilla of Honduras; 1st Vice President, Dr. Manuel Delgado of El Salvador; 2nd Vice President, Dr. Carlos Salazar of Guatemala; 1st Secretary, Dr. José Matos of Guatemala; 2nd Secretary, Dr. Manuel Castro Ramírez of Salvador; 1st Assistant Secretary, Dr. Salvador Mendieta of Guatemala; 2nd Assistant Secretary, Dr. Angel Zuñiga Huete of Honduras. . . .

I have [etc.]

WILLING SPENCER

813.00/1108 : Telegram

The Honduran Acting Minister of Foreign Affairs (Reina) to the Secretary of State[Translation ³⁶]TEGUCIGALPA, *September 12, 1921.*

[Received 10:40 a.m.]

The Ministry of Foreign Affairs of Honduras, by direction of the Provisional Federal Council of the Republic of Central America, has the honor to inform Your Excellency that the National Constituent Assembly signed the Political Constitution of the new republic yesterday ³⁷ in accordance with the stipulations of the covenant of San José, Costa Rica.

Very respectfully,

A. R. REINA, JR.

813.00/1108 : Telegram

*The Secretary of State to the Honduran Minister of Foreign Affairs (Uclés)*WASHINGTON, *September 14, 1921.*

I thank you for your telegram of September 12 in which you inform me on behalf of the Provisional Federal Council of the Republic

³⁶ File translation revised.³⁷ The Constitution was signed Sept. 9.

of Central America that the National Constituent Assembly signed the political constitution of the new Republic on September 11. I beg you to convey to the Provisional Federal Council of the Republic of Central America my sincere felicitations.

CHARLES E. HUGHES

813.00/1110 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, *September 14, 1921—noon.*

[Received 8:45 p.m.]

46. Salvadorean Government considers international status of three states of the union unchanged and that foreign relations continue as before until the meeting of the Federal Council next February when it will ask for recognition, first from us, afterwards from the other powers. Above repeated to Guatemala and Honduras.

SCHUYLER

813.00/1105 : Telegram

The Secretary of State to the Chargé in Honduras (Spencer)

WASHINGTON, *September 30, 1921—6 p.m.*

37. Your despatch 185, August 16, 1921.³⁹

Cable Department whether so-called interpretation of Monroe Doctrine, as communicated to the Government of Salvador in February, 1920, by the Department of State,⁴⁰ has been inserted in Central American Constitution.

HUGHES

813.00/1115 : Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, *October 1, 1921—3 p.m.*

[Received October 2—12:10 a.m.]

117. Replying to your cable of September 30, 7 [6] p.m., number 38 [37]. No it was not.

SPENCER

³⁹ Not printed.

⁴⁰ See note of Feb. 26, 1920, to the Salvadoran Minister, *Foreign Relations*, 1920, vol. II, p. 226.

813.00/1150

The Secretary of the Provisional Federal Council of the Republic of Central America (Martínez Suárez) to the Secretary of State

[Translation ⁴]TEGUCIGALPA, *October 6, 1921.*

[Received November 26.]

MOST EXCELLENT SIR: In execution of the Pact of Union signed at San José, Costa Rica, on the 19th of January of this year, approved by their respective legislatures, the States of Guatemala, Salvador, and Honduras have constituted a Federal Republic, organized in accordance with the Political Constitution framed by the Constituent National Assembly on the 9th of September last and promulgated on the same date.

The executive power of the new nation at present resides in the Provisional Federal Council, in accordance with article VIII of the Pact of San José, the said Council having, among other powers, that of bringing about "by itself or through representatives, the admission of the Republic of Central America into the juridical international community" as specially provided by paragraph 2 of article 207 of the Political Constitution.

Acting under that provision, the Provisional Federal Council has seen fit to appoint Dr. Don José Matos, Dr. Don Francisco A. Lima, and Dr. Don Vicente Mejía Colíndres, former members of the Constituent National Assembly for the States of Guatemala, Salvador, and Honduras, to seek from the Government of Your Excellency the official recognition of the Republic of Central America, already constituted in accordance with all the requirements of international law.

The Provisional Federal Council cherishes the most confident hope that its representatives will be received by the Government of Your Excellency with that high spirit of justice and cordiality that it has always shown to the American peoples within the solidarity that binds them to your great nation.

On this welcome occasion I have [etc.]

F. MARTÍNEZ SUÁREZ

813.00/1234

Memorandum by the Under Secretary of State (Fletcher)

[Extract]

WASHINGTON, *October 7, 1921.*

The Nicaraguan Minister called today to ask whether the telegram of congratulation which was sent by the Secretary of State to the

⁴ File translation revised.

New Central American Union was to be taken by his Government as a recognition of the new Central American State. I told him that I had not seen such a telegram, but that if one had been sent I took it that it was merely in line with the position which the Secretary of State had taken in his speech at the luncheon given by the Nicaraguan Minister of Foreign Affairs at the Metropolitan Club some months ago. He said that Nicaragua wanted to adopt, with regard to the Central American Union, a policy consistent with the wishes of the United States Government, but did not want to be in the position of being forced in at a later date, and would like to know how our Government felt with regard to the matter, as there were special considerations which had kept Nicaragua aloof.

I replied that I was not familiar with the details of Central American affairs, which were being handled directly by the Secretary of State, and I suggested that he take an early occasion to discuss the matter with the Secretary, which he said he would do.

814.00/577: Telegram

The Chargé in Honduras (Wilson) to the Secretary of State

TEGUCIGALPA, December 9, 1921—2 p.m.

[Received December 10—9:10 a.m.]

131. The Secretary of the Provisional Federal Council informs me as follows: 1st, the Guatemalan military junta has notified Council of facts of revolution⁴⁷ stating that it was undertaken by Liberal Federalist Party which desires to support Federation; 2d, the Presidents of Honduras and Salvador have informed Council that they are prepared to obey latter's instructions; 3d, Council will delay any action until the attitude of Government of the United States towards Guatemala has been defined.

WILSON

813.00/1156

The Acting Chief of the Division of Latin American Affairs, Department of State (Munro) to the Under Secretary of State (Fletcher)

[WASHINGTON,] December 14, 1921.

DEAR MR. FLETCHER: Without prejudice to any subsequent action which the Department may consider, I wish to call your attention to the urgent necessity for making representations to the Central

⁴⁷ For papers relating to this subject, see vol. II, pp. 178 ff.

American countries at once which will prevent the international situation from getting entirely beyond control. The situation is exceedingly and increasingly serious. Honduras and Salvador have rather broadly intimated to us their intention of intervening in Guatemala under pretext of maintaining the authority of the Federal Government, and I fear that they will regard our refusal to express an opinion upon such intervention as permission to go ahead. The Provisional Government in Guatemala telegraphs us⁴⁸ that Salvador is mobilizing forces and that the Guatemalan Government declines any responsibility. Nicaragua's confidential agent in Salvador informs Mr. Schuyler that Nicaragua is planning to join with other enemies of the Union to attack Honduras. All of these countries are looking to us for action which will prevent a general Central American war. I therefore submit the attached telegrams⁴⁹ for your consideration, and I wish to recommend also that the Navy Department be asked, at once, to send warships to Puerto Barrios and to the Pacific ports of Central America. Our representations will not have full effect unless we back them up in this manner.

MUNRO

813.00/1156 : Telegram

The Secretary of State to the Chargé in Nicaragua (Goold)

WASHINGTON, December 14, 1921—5 p.m.

43. You will inform the Government of Nicaragua that the following has been communicated to the Governments of Honduras and Salvador:

"The United States would view with the greatest concern any attempt by one Central American country to interfere in the internal affairs of another, either by invasion or by assisting any one political party. Any Government which made such an attempt would incur the heaviest responsibility for embroiling Central America in a war which would discredit Central America in the eyes of the civilized world. This Government feels that no lasting federal union could be imposed by force. It confidently expects, therefore, that the Government of Honduras, (Salvador), in its relations with its neighbors, during the present emergency, will [scrupulously] comply with the principles laid down by the Treaties of 1907."⁵⁰

HUGHES

⁴⁸ Telegram not printed.

⁴⁹ No. 43, Dec. 14, to the Chargé in Nicaragua, and no. 54, Dec. 14, to the Minister in Guatemala, *infra*.

⁵⁰ *Foreign Relations*, 1907, pt. 2, pp. 692-711.

813.00/1156 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, December 14, 1921—5 p.m.

54. You will informally communicate the following to the members of the Provisional Government:

“The United States would view with the greatest concern any attempt by one Central American country to interfere in the internal affairs of another, either by invasion or by assisting any one political party. Any Government which made such an attempt would incur the heaviest responsibility for embroiling Central America in a war which would discredit Central America in the eyes of the civilized world. The United States confidently expects, therefore, that all of the Central American Governments will scrupulously comply with the principles laid down in the Treaties of 1907.”

HUGHES

813.00/1187

The Acting Chief of the Division of Latin American Affairs, Department of State (Munro) to the Under Secretary of State (Fletcher)

[WASHINGTON,] December 15, 1921.

DEAR MR. FLETCHER: The Central American Delegates called on me last night to ask that we issue a statement immediately, expressing our sympathy with the unionist movement and our readiness to recognize the Federal Government as soon as it is constituted. They said that such action would strengthen the Provisional Federal Government and would assist it in its efforts to deal with the situation created by the Guatemalan revolution. I told them that I thought the Department could hardly decide its policy toward the Federal Government until the situation cleared and particularly until we knew the attitude of the new Guatemalan authorities toward the Union.

It seems most probable that the present Union will break up as the result of the Guatemalan revolution. Consequently, I believe that we should refrain from any statement of policy at present.

MUNRO

813.00/1157 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, December 16, 1921—1 p.m.

[Received December 17—10:40 a.m.]

68. I saw the President this morning and left with him a memorandum embodying your December 14, 5 p.m.⁵¹ He was greatly

⁵¹ Not printed; see telegram no. 43, Dec. 14, to the Chargé in Nicaragua, p. 161.

pleased and will publish it locally to strengthen position he has taken, stating that under no circumstances would he interfere by force in Guatemala or to impose a federation.

He states that policy of non-interference is approved by all elements of Salvadorean people except so-called Unionists in Santa Ana and he hopes your declaration [will] quiet latter for the time at least. Government has situation well in hand.

SCHUYLER

813.00/1158 : Telegram

The Chargé in Honduras (Wilson) to the Secretary of State

TEGUCIGALPA, December 16, 1921—5 p.m.

[Received December 17 (?)—4:50 p.m.]

132. Department's telegram 45, Dec. 14, 5 p.m.⁵² The President assures me Honduras will not interfere in internal affairs of Guatemala; he adds, however, that he must comply with instructions of Federal Council. Situation quiet here. Pressure is being exerted on Federal Council and Honduran Government by Unionists to invade Guatemala but I am confident such action will not be undertaken.

WILSON

813.00/1163

The Acting Chief of the Division of Latin American Affairs, Department of State (Munro) to the Under Secretary of State (Fletcher)

[WASHINGTON,] December 23, 1921.

DEAR MR. FLETCHER: The Central American Delegates called on me Wednesday afternoon to leave the attached memorandum. I told them again that it would be impossible to discuss the question of recognition of the Federal Government until the situation in Central America cleared. They said that they had strong hopes of a peaceful solution of the difficulties between the Federation and the new Guatemalan Government, but that they were not informed as to the details of any negotiations which might be going on. The Guatemalan authorities have made advances to the Federal Council, but they understood that the Federal Council was delaying its reply until the attitude of the United States was made clear.

MUNRO

⁵² Not printed; see telegram no. 43, Dec. 14, to the Chargé in Nicaragua, p. 161.

[Enclosure—Translation ⁵³]*Memorandum by the Central American Delegates*

In compliance with instructions received from the Provisional Federal Council of the Republic of Central America, we wish to put it on record in the Department of State that the military coup that has just taken place in Guatemala implies a legal disturbance in the juridical development of the Pact of San José, Costa Rica, and of the Federal Constitution, and that we have subsequently received telegrams confirming the foregoing views.

But, on the other hand, in order to demonstrate the sentiment which now prevails in Central America, we deem it expedient to leave a copy of the telegram received by this delegation yesterday from Tegucigalpa, from the Chief of the Unionist Party, reading as follows:

“Unionist Party upholds Federation at any cost and begs you to press recognition Republic. R. Diaz Chávez.”

813.00/1162: Telegram

The Chargé in Honduras (Wilson) to the Secretary of State

TEGUCIGALPA, December 30, 1921—2 p.m.

[Received January 1, 1922—9:48 a.m.]

135. Provisional Federal Council issued decrees yesterday convoking Federal Deputies from the three States, and Senators from Honduras and Salvador, in preparatory sessions in the first 15 days of January.

WILSON

**DENUNCIATIONS OF THE TRADE-MARKS CONVENTION OF
AUGUST 20, 1910 ⁵⁴**

Efforts to Persuade Guatemala and Nicaragua to Withdraw Their Denunciations—Denunciation by Costa Rica

710.D4/227

The Minister in Guatemala (McMillin) to the Secretary of State

No. 158

GUATEMALA, February 16, 1921.

[Received March 2.]

SIR: Referring to Department's instructions number 397 of June [July] 16th 1920,⁵⁵ and to Legation's despatch number 93 of August 26 1920,⁵⁶ I have the honor to report as follows:

⁵³ File translation revised.⁵⁴ Continued from *Foreign Relations*, 1920, vol. II, pp. 218-223; for text of convention, see *ibid.*, 1910, p. 53.⁵⁵ *Ibid.*, 1920, vol. I, p. 219.⁵⁶ *Ibid.*, p. 221.

It will be observed that at the close of the note from the Guatemalan Foreign Office quoted in Legation's despatch of August 26 1920, after giving the reasons of Guatemala for denouncing the Pact concerning trade marks mentioned in Department's instruction of June [July] 16 1920, the Guatemalan Government informed this Legation that the Central Executive Council of the High International Commission had forwarded a note to the Guatemalan Government asking for a reconsideration of the denunciation of said Pact, and stating that the Guatemalan Government "has sought the opinion of the Council of State".

I am now informed by the Minister for Foreign Affairs that on account of the reasons they had heretofor[e] given for the denunciation of said Pact, viz, that it was unilateral, the Guatemalan Government saw no special benefit to accrue to Guatemala from its renewal, and that it would cause a loss to Guatemala of about \$40,000 a year of revenue. But notwithstanding this, the Minister added, if it seemed best to the other nations concerned, that the Pact should be renewed, Guatemala would be disposed to take up the matter and reenter the Union.

I have [etc.]

BENTON McMILLIN

710.D4/227

The Secretary of State to the Minister in Guatemala (McMillin)

No. 486

WASHINGTON, August 29, 1921.

SIR: Reference is made to your despatch No. 158, dated February 16, 1921, referring to the denunciation by Guatemala of the Convention between the United States and Other Powers for the Protection of Trade Marks, signed at Buenos Aires on August 20, 1910.

It has been noted that Guatemala assigned as reasons for its denunciation of the Convention that they received no especial benefit from their participation in it, and because of loss of revenue.

The Director of the International Bureau (northern group) at Habana, Cuba, recently stated that with the rapid increase of the revenues of the Bureau at Habana, the small contributions heretofore requested of the governments composing the northern group will not be necessary in the near future.

According to your despatch above referred to, the Minister of Foreign Affairs stated that if it seemed best to other nations concerned that the pact should be renewed, Guatemala would be disposed to take up the matter and reenter it.

You are requested to discuss this matter informally with the Minister of Foreign Affairs, endeavoring to persuade the Guatemalan Government to formally withdraw its intention of denouncing the

Convention, indicating the desirability of maintaining the Convention intact.

There is enclosed herewith a memorandum⁵⁷ prepared in the Department by a conference consisting of representatives from the Departments of Commerce, Treasury, Patent Office, and the Department of State, upon the desirability of obtaining the withdrawals of the denunciations heretofore sent to the Minister of Foreign Relations and Worship at Buenos Aires by the Governments of Guatemala and Nicaragua.

A similar instruction has been transmitted to the American Legation at Managua.⁵⁸

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

710.D4/254

The Secretary of State to the Chargé in Nicaragua (Goold)

No. 399

WASHINGTON, October 29, 1921.

SIR: The attention of the Department has been called by the Secretary General of the Inter-American High Commission to the action of Nicaragua in denouncing the Convention for the Protection of Trade Marks signed at Buenos Aires on August 20, 1910.⁵⁹ It is said that this action by the Nicaraguan Government was based upon the temporary financial difficulties which made difficult the payment of Nicaragua's quota for the maintenance of the Trade Mark Registration Bureau.

It is felt that the action taken by the Nicaraguan Government in this matter constitutes a serious setback to the movement for the protection of industrial property on the American continent. The establishment of the Trade Mark Registration Bureau was one of the important achievements of the Pan American Financial conferences and of the work of the Inter-American High Commission. This Government is vitally interested in the maintenance of this Bureau because of the need for protection of literary and industrial property as a step towards the promotion of commerce between the American republics. It is difficult to believe that the very small amount represented by Nicaragua's quota for the support of the Bureau, or the small amount of revenue which Nicaragua might

⁵⁷ Memorandum not found in Department files.

⁵⁸ Not printed.

⁵⁹ Letter of Oct. 19, 1921; not printed.

lose through the operation of the Convention, would lead the Government of that country to withdraw from participation in an institution, the work of which means so much to the commercial and cultural interests of the entire continent.

You will bring these considerations to the attention of the Nicaraguan Government and state that the Government of the United States would be very glad if the Government of Nicaragua felt itself able to reconsider its action in this matter, and to withdraw the denunciations of the Convention.

I am [etc.]

For the Secretary of State:
HENRY P. FLETCHER

710.D4/262

The Argentine Ambassador (Le Breton) to the Secretary of State

[Translation ⁶⁰]

No. 1

WASHINGTON, January 7, 1922.

MR. SECRETARY: I have the honor to forward herewith to Your Excellency a communication received from the Minister of Foreign Affairs and Worship of the Argentine Republic giving notice that the Trade-Mark Convention signed in Buenos Aires in 1910 at the Fourth International American Conference has been denounced by the Government of Costa Rica.

I avail myself [etc.]

T. A. LE BRETON

[Enclosure—Translation]

*The Argentine Minister of Foreign Affairs and Worship
(Pueyrredon) to the Secretary of State*

BUENOS AIRES, November 19, 1921.

MR. SECRETARY: I have the honor to address Your Excellency for the purpose of informing you that the Government of Costa Rica has sent to this Department a note, a certified copy of which is enclosed ⁶¹ to the effect that it does not suit that Government to continue being a party to the Trade Mark Convention signed at the Fourth International American Conference which met in this capital in 1910, wherefor it sees fit to denounce it.

⁶⁰ File translation revised.

⁶¹ Not printed; the Costa Rican communication was dated Sept. 30, 1921.

Consequently and in accordance with the provision in Article XIX of the above-named Convention I forward that instrument to Your Excellency by way of notification and for the information of Your Government.

I avail myself [etc.]

H. PUEYRREDON

CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS, OCTOBER 6, 1921, AMENDING THE CONVENTION OF MAY 20, 1875, RELATING TO WEIGHTS AND MEASURES ⁶²

592.51 A 4/87a

The Secretary of State to the Ambassador in France (Herrick)

No. 53

WASHINGTON, *September 12, 1921.*

SIR: I have to inform you that at the request of the Secretary of Commerce, Doctor Samuel W. Stratton, Director of the Bureau of Standards, has been designated technical delegate on the part of the United States to the Sixth General Conference of Weights and Measures which will meet at Paris in the Ministry of Foreign Affairs on the 27th of the present month for the purpose of considering the signing of a convention modifying the convention relating to weights and measures concluded at Paris on May 20, 1875.

To the Fifth General Conference held in 1913, in addition to Doctor Stratton, who was appointed as technical delegate, Mr. Robert Woods Bliss, at that time Secretary of the Embassy at Paris, was appointed as a second delegate. It is desired that a similar course be followed in the case of the forthcoming conference, and to that end a certificate designating Mr. Sheldon Whitehouse, Counselor of your Embassy, as a delegate to the Sixth Conference has been issued and is enclosed herewith for delivery to him.⁶³

I further enclose for delivery to Doctor Stratton the President's full power⁶³ authorizing Doctor Stratton and Mr. Whitehouse to sign the modified convention which it is expected the conference will agree on.

You will please inform the French Government of these designations.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

⁶² For text of convention of 1875, see Malloy, *Treaties*, vol. II, p. 1924.

⁶³ Not printed.

Treaty Series No. 673

*Convention between the United States of America and Other Powers,
Signed at Sèvres, October 6, 1921* ⁶⁴

INTERNATIONAL CONVENTION FOR THE AMENDMENT:

1st. Of the convention signed at Paris, May 20, 1875, to insure the international unification and improvement of the metric system;
2nd. Of the regulations annexed to the said convention;

Concluded between: Germany, Argentine Republic, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Denmark, Spain, the United States of America, Finland, France, Great Britain, Hungary, Italy, Japan, Mexico, Norway, Peru, Portugal, Rumania, the Serb-Croat-Slovene State, Siam, Sweden, Switzerland, and Uruguay.

The undersigned plenipotentiaries of the countries above enumerated, having met in conference in Paris, have agreed on the following:

ARTICLE 1

Articles 7 and 8 of the Convention of May 20, 1875, are superseded by the following provisions:

Article 7. After the Committee shall have proceeded with the work of coordinating the measures relative to electric units and when the general conference shall have so decided by a unanimous vote, the Bureau will have charge of the establishment and keeping of the standards of the electric units and their test copies and also of comparing with those standards the national or other standards of precision.

The Bureau is also charged with the duty of making the determinations relative to physical constants, a more accurate knowledge of which may be useful in increasing precision and further insuring uniformity in the provinces to which the above mentioned units belong (article 6 and 1st paragraph of article 7).

It is finally charged with the duty of coordinating similar determinations effected in other institutions.

Article 8. The international prototypes and standards and also their test copies shall be deposited in the Bureau; access to the deposit shall be solely reserved for the international committee.

⁶⁴ Original in French only; English translation supplied by editor. Ratification advised by the Senate, Jan. 5, 1923; ratified by the President, Sept. 19, 1923; ratification of the United States deposited with the Government of the French Republic, Oct. 24, 1923; proclaimed, Oct. 27, 1923.

ARTICLE 2

Articles 6, 8, 9, 10, 11, 12, 15, 17, 18, and 20, of the regulations annexed to the convention of May 20, 1875, are superseded by the following provisions:

Article 6. The annual appropriation for the international bureau consists of two parts, one of which is fixed, the other complementary.

The fixed part is, in principle, 250,000 francs, but on the unanimous vote of the Committee may be raised to 300,000 francs. It is borne by all the states and autonomous colonies that adhered to the meter convention before the Sixth General Conference.

The complementary part is made up of contributions from the states and autonomous colonies that joined the convention after the aforesaid General Conference.

The Committee is charged with the duty of drawing up on the motion of the director the annual budget, but without exceeding the amount computed in accordance with the provisions of the two paragraphs above. The budget is made known every year by means of a special financial report to the governments of the High Contracting Parties.

If the committee find it necessary either to increase beyond 300,000 francs the fixed part of the annual appropriation or to modify the computation of the contributions as determined by article 20 of these regulations, it should lay the matter before the governments so as to enable them to issue in good time the needed instructions to their delegates to the next general conference in order that the said conference may deliberate to good purpose. The decision will stand only in the case that no opposition shall have been expressed before or in the conference by any of the contracting states.

If a state should let three years go without paying its contribution, that contribution shall be divided among the other states proportionally to their own contribution. The additional sums thus paid by the states to make up the whole of the appropriation of the Bureau shall be regarded as an advance to the delinquent state and shall be reimbursed to them if that state should make good its arrears.

The advantages and prerogatives conferred by adhering to the Meter Convention are suspended in the case of states that have been delinquent three years.

After three more years the delinquent state shall be expelled from the Convention and the reckoning of the contributions restored in accordance with the provisions of article 20 of these regulations.

Article 8. The International Committee mentioned in article 3 of the convention shall be composed of 18 members all from different states.

At the time of the renewal by halves of the International Committee, the outgoing members shall be first those who may have been provisionally elected to fill vacancies between two sessions of the conference; the others will be drawn by lot. Outgoing members may be reelected.

Article 9. The International Committee organizes itself by electing by its own secret vote its chairman and secretary. Those appointments are notified to the governments of the High Contracting Parties.

The chairman and the secretary of the Committee and the director of the Bureau must belong to different countries.

Once organized, the Committee cannot hold other elections or make other appointments until three months shall have elapsed after the notice of a vacancy calling for a vote shall have been given to all the members.

Article 10. The International Committee directs all the metrological works that the High Contracting Parties shall decide to have carried on jointly.

It is also charged with the duty of seeing to the conservation of the international prototypes and standards.

It may, lastly, institute the cooperation of specialists in questions of metrology and coordinate the results of their work.

Article 11. The Committee shall meet at least once every two years.

Article 12. The balloting in the Committee is by a majority vote: in case of a tie vote the chairman has the casting vote. Decisions are only valid if the members present are at least one half of the elected members forming the Committee.

Subject to that condition absent members have a right to delegate their votes to present members who must prove that they have been so delegated. This also applies to appointments by secret ballot.

The director of the Bureau has a vote in the Committee.

Article 15. The International Committee will draw up a detailed set of regulations for the organization and work of the Bureau and will fix the dues to be paid for the extraordinary works provided by articles 6 and 7 of the convention.

Those dues will be applied to improving the scientific equipment of the Bureau. A certain amount may be drawn annually for the retirement fund from the total dues collected by the Bureau.

Article 17. A regulation drawn up by the Committee will determine the maximum staff for each category of the personnel of the Bureau.

The director and his assistants shall be elected by secret ballot by the International Committee. Their appointment shall be notified to the governments of the High Contracting Parties.

The director will appoint the other members of the personnel within the bounds laid by the regulation mentioned in the first paragraph above.

Article 18. The director of the Bureau shall have access to the place where the international prototypes are deposited only in pursuance of a resolution of the Committee and in the presence of at least one of its members. The place of deposit of the prototypes shall be opened only by means of three keys, one of which shall be in the possession of the Director of Archives of France, the second in that of the chairman of the Committee, and the third in that of the director of the Bureau.

The standards of the class of national prototypes alone shall be used for the ordinary comparing work of the Bureau.

Article 20. The scale of contributions spoken of in article 9 of the convention is established for its fixed part on the basis of the appropriation referred to in article 6 of the present regulations and on that of the population; the normal contribution of each state cannot be less than 5 to a thousand nor more than 15% of the whole appropriation, regardless of the population. In order to establish that scale, it shall first be found which states are in the conditions required for the minimum and maximum, and the remainder of the quota shall be distributed among the other states in the direct ratio of their population.

The quota thus reckoned stands for the whole time included between two consecutive general conferences and can only be modified in the meanwhile in the following cases:

(a) If one of the adhering states allows three successive years to pass without making its payments;

(b) When, on the contrary, a state which had been previously delinquent for more than three years pays up its arrears, and the occasion arises to return to the other governments the advances made by them.

The complementary contribution is computed on the same basis of population and is like that which the states that have long been parties to the convention pay under the same conditions.

If after adhering to the convention a state declares it would like to extend the benefits thereof to one or more of its colonies that are not autonomous, the number of the population of the said colonies would be added to that of the state in reckoning the scale of contributions.

When a colony that is recognized as autonomous shall desire to adhere to the convention, it will be regarded with respect to its ad-

mission into the convention and as the mother country may decide, either as a dependency of that mother country or as a contracting state.

ARTICLE 3

Any state may adhere to this convention by giving notice thereof to the French Government which shall notify all the participant states and the chairman of the International Committee of Weights and Measures.

Any new accession to the convention of May 20, 1875, will necessarily involve adherence to this convention.

ARTICLE 4

The present convention shall be ratified. Each power shall within the shortest possible time send its ratification to the French Government which will see to its being notified to the other signatory countries. The ratifications shall remain deposited in the archives of the French Government. The present convention will go into effect for each signatory country on the date of the deposit of its instrument of ratification.

Done at Sèvres, October 6, 1921, in one copy that will be deposited in the Archives of the French Government and of which certified copies shall be forwarded to each of the signatory countries.

This copy, dated as above, may be signed until March 31, 1922.

In witness whereof, the following plenipotentiaries, whose powers have been found to be in good and due form, have signed the present convention.

For Germany:

FORSTER
KÖSTERS

For Argentina:

M. T. DE ALVEAR
LUIS BEMBERG

For Austria:

MAYRHAUSER

For Belgium:

ERN. PASQUIER

For Brazil:

FRANC. RAMOS DE ANDRADE NEVES

For Bulgaria:

SAVOFF

For Canada:

HARDINGE OF PENSHURST
J. E. SEARS, JR.

- For Chile:*
M. AMUNATEGUI
- For Denmark:*
K. PRYTZ
- For Spain:*
SEVERO GOMEZ NUÑEZ
- For the United States:*
SHELDON WHITEHOUSE
SAMUEL W. STRATTON
- For Finland:*
G. MELANDER
- For France:*
P. APPELL
PAUL JANET
A. PEROT
J. VIOLLE
- For Great Britain:*
HARDINGE OF PENSHURST
J. E. SEARS, JR.
P. A. MACMAHON
- For Hungary:*
BODOLA LAJOS
- For Italy:*
VITO VOLTERRA
NAPOLEONE REGGIANI
- For Japan:*
A. TANAKADATE
SAISHIRO KOSHIDA
- For Mexico:*
JUAN F. URQUIDI
- For Norway:*
D. ISAACHSEN
- For Peru:*
G. TIRADO
- For Portugal:*
ARMANDO NAVARRO
- For Rumania:*
ST. HEPITES
C. STATESCU
- For the Serb-Croat-Slovene State:*
M. BOCHKOVITCH
CELESTIN KARGATCHIN
- For Siam:*
DAMRAS
- For Sweden:*
K. A. WALLROTH
IVAR FREDHOLM
- For Switzerland:*
RAOUL GAUTIER
- For Uruguay:*
J. C. BLANCO

BOUNDARY DISPUTES

Costa Rica and Panama: ⁶⁵ Acceptance of the Good Offices of the United States; Recommendation by the United States of a Settlement on the Basis of the Awards of President Loubet, 1900, and of Chief Justice White, 1914; ⁶⁶ Objections by Panama; Advice by the United States to Panama to Give Effect to the Loubet and White Awards

718.1915/296a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, February 28, 1921—2 p.m.

15. This Government views with concern the growing acuteness in the relations between Panama and Costa Rica. The territorial question on which Costa Rica and Panama are divided has twice been the subject of disinterested and judicial examination upon the joint submission of both Governments.

In the first instance, the matter was submitted to the President of the French Republic, and after much time spent in its investigation, the so-called Loubet award was made. When this award in turn gave rise to controversy as to its intention and application, a new submission, after the lapse of several years, was made to the Chief Justice of the United States Supreme Court. Again an exhaustive examination was made of the whole controversy and an award made by the highest judicial authority and in the most disinterested spirit, which has not been accepted by Panama. It is difficult for us to see what can be gained by a proffer of good offices or any other form of friendly interposition in the present phase of this longstanding dispute. Such interposition could only point to further examination of the matter in controversy and a third arbitral decision of it. In view of the two instances in which this mode of adjustment has been sought, it seems idle either to recommend it or to look upon it as a method with any particular chance or promise of bringing the controversy to a conclusion. It is the opinion of the Department that both Panama and Costa Rica should desist from hostile demonstrations or armed activities, and thus afford an opportunity for a discussion and agreement as to the manner in which the terms of Chief Justice White's decision shall be applied, paying due regard to any contentions that may be advanced by either party bearing upon the subject.

We are communicating the substance of the above to our Legation at Costa Rica for submission to the Costa Rican government, add-

⁶⁵ For previous correspondence published, see *Foreign Relations*, 1915, pp. 1131 ff.

⁶⁶ For texts of the awards, see *ibid.*, 1910, p. 786, and 1914, p. 1000, respectively.

ing an expression of regret that Costa Rica should have seen fit to act so precipitately and without notification of its intention and suggesting the recall of her forces and complete avoidance of military action or the threat of such action, pending adjustment as herein mentioned. The same action should be taken simultaneously by Panama.

COLBY

718.1915/288 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, March 1, 1921—2 p.m.

[Received 3:58 p.m.]

41. Pursuant to receipt last night of Department's 15, February 28, 2 p.m., I have held personal and unofficial conference with Panaman President and Panaman Minister for Foreign Affairs in the course of which they have authorized me to say to Department that Panama is willing to halt further hostile action if Costa Rica will do so and hold forces where they are, discussing matter diplomatically; that Panaman President considers time opportune for opening negotiations for settlement of the boundary dispute; and Panaman President made suggestion of both countries holding plebiscites respectively in the Atlantic side disputed area and Pacific side disputed area agreeing to abide by result of plebiscite. It is agreed to exchange personal unofficial notes this afternoon setting forth above understanding.

PRICE

718.1915/307 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, March 2, 1921—4 p.m.

[Received March 4—11:40 p.m.]

31. Contents of Department's 10, February 28, 9 p.m.⁶⁷ have been conveyed to Minister for Foreign Affairs. He again expressed appreciation of friendly concern manifested by the United States and assured me orders will be given immediately to Costa Rican forces to avoid further contact with Panaman forces where such action does not involve movements incompatible with national dignity.

I informed him of rumored intention of Costa Rica to invade region of Almirante Bay to which he replied that the report might

⁶⁷ Not printed; see telegram no. 15, Feb. 28, to the Minister in Panama, p. 175.

be true adding that such a movement merely would be a justifiable reprisal. Inasmuch as 1,000 soldiers with corresponding equipment and artillery have been sent to Port Limon within last 48 hours I felt it to be in accordance with instructions to state that any advance by Costa Rican forces beyond recognized boundary would be most regrettable and would undoubtedly weaken Costa Rica's cause.

It is respectfully suggested that if Panama complies with suggestion to retire troops that fact be promptly communicated to me for the information of Costa Rican Government. Popular enthusiasm for war has been stimulated by reported engagement at Coto and this may make it difficult for President Acosta to withdraw forces or suspend military activities until populace knows Panama has already done likewise.

THURSTON

718.1915/293 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, March 3, 1921—midnight.

18. Department's February 28, 2 p. m., and your March 1, 9 p. m.⁶⁸

The Government of the United States has seen with the deepest regret the hostilities which have taken place between the armed forces of Panama and Costa Rica, from which loss of life has resulted, and which have caused public sentiment in both countries to be inflamed to a dangerous degree. It will be evident to the Government of Panama that this Government, by reason of its special interests in the Isthmus, could not but view with the gravest apprehension any developments which will disturb the peace and tranquillity of Central America. While the Government of the United States appreciates the assurances conveyed through you by the Government of Panama, that this Government will be consulted before any declaration of war is issued by the Government of Panama, the Government of the United States feels that a declaration of war because of a controversy growing out of the inability of the Republics of Costa Rica and Panama to agree upon a solution of the boundary dispute, would be inadmissible. The dispute is one, as pointed out in the Department's February 28, 2 p. m., which has already been examined during a period of years in the most disinterested and judicial manner, and it cannot but be evident that the only lasting solution which can be found will be reached as the result of the friendly offices of an impartial party

⁶⁸ Latter not printed; it conveyed Panaman assurances that the United States would be consulted before any declaration of war.

to the controversy and not by hostilities of the character which have already taken place, which tend only further to excite the passions of the unruly element in the populations of both Republics.

The Government of the United States therefore desires to urge upon the Government of Panama, in the most earnest and friendly manner, the necessity of withdrawing at once all troops now on the Panaman side of the *status quo* line to the Cerro Pando-Punta Burica line and giving the strictest instructions to the Panaman troops which may be in that neighborhood to take no action which would provoke hostilities. If the Government of Panama will agree to take this action, the Government of the United States will suggest to the Government of Costa Rica the advisability of instructing its troops to advance no further towards the Cerro Pando-Punta Burica line. It is the belief of this Government that such action will be the only means of insuring an avoidance of a renewal of hostilities in the near future.

Once such steps have been taken by both Governments concerned, the Government of the United States will be glad to recommend to the Government of Panama and to the Government of Costa Rica a means of reaching a final and definite solution of this long-standing boundary dispute. It should be made entirely clear to the Government of Panama that the solution which would under these circumstances be suggested by this Government would be a recommendation as to a method acceptable to both Governments of carrying out the terms of the award of Chief Justice White, giving thorough consideration in this connection to any contentions which may be advanced by either party to the controversy.

You are instructed to communicate the foregoing to President Porras at the earliest opportunity and report by cable the result of your interview.

COLBY

718.1915/290 : Telegram

The Secretary of State to the Chargé in Costa Rica (Thurston)

WASHINGTON, March 3, 1921—midnight.

13. Department's February 28, 9 p.m.⁶⁹ and your February 28, 4 p.m.⁷⁰

The Government of the United States, out of friendly consideration for the Government of Costa Rica, wishes to emphasize the deep regret with which it views the hostilities which have taken place between the armed forces of Panama and Costa Rica, from which loss of life has resulted, and which have caused public sentiment in both

⁶⁹ Not printed; see telegram no. 15, Feb. 28, to the Minister in Panama, p. 175.

⁷⁰ Not printed.

countries to be inflamed to a dangerous degree. It will be apparent to the Government of Costa Rica that this Government, because of its special interests in the Isthmus, cannot but view with the gravest apprehension any developments which disturb the peace and tranquillity of Central America. The Government of the United States feels that an actual declaration of war because of a controversy growing out of the inability of the Republics of Costa Rica and Panama to agree upon a solution of their dispute, would be clearly inadmissible. The dispute is one, as pointed out in the Department's February 28, 9 p. m., which has already been examined during a period of many years in the most disinterested and judicial manner and it cannot but be evident that the only lasting solution which can be found will be reached not by hostilities of the character which have already taken place, which tend only further to excite the passions of the populace of both Republics, but rather by the friendly offices of an impartial party to the controversy.

The Government of the United States therefore desires to urge upon the Government of Costa Rica, in the most earnest and friendly manner, that it announce that instructions have been given to its troops to advance no further towards the Cerro Pando-Punta Burica line pending a final settlement of the controversy. If the Government of Costa Rica will agree to take this action, the Government of the United States will suggest to the Government of Panama the advisability of withdrawing at once all troops now on the Costa Rican side of the Cerro Pando-Punta Burica line to the Panaman side of that line and to give the strictest instructions to the Panaman troops which may be in that neighborhood to take no action during the withdrawal which would provoke hostilities. It is the belief of this Government that such action will be the only means of insuring an avoidance of a renewal of hostilities in the near future.

Once such steps have been taken by both Governments concerned, the Government of the United States will be glad to recommend to the Government of Costa Rica and to the Government of Panama a means of reaching a final and definite solution of this long-standing boundary dispute. It should be made entirely clear to the Government of Costa Rica that the solution which would under these circumstances be suggested by this Government would be a recommendation as to a method acceptable to both Governments of carrying out the terms of the award of Chief Justice White, giving thorough consideration in this connection to any contentions which may be advanced by either party to the controversy.

You are instructed to communicate the foregoing to President Acosta at the earliest opportunity and report by cable the result of your interview.

COLBY

718.1915/313 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, March 4, 1921—4 p.m.

[Received 9:30 p.m.]

51. Following is a copy of memorandum signed by Panaman Minister for Foreign Affairs and myself of result of conference held pursuant to receipt since noon of Department's 18, March 3, 12 midnight:

"Memorandum of response to cablegram from Washington dated March 3rd, 12 p.m. Department's cablegram of last midnight presented in conference with Panaman President and Minister for Foreign Affairs who agree that Panaman troops will be withdrawn to the Cerro Pando-Punta Burica line provided same Panaman civil authorities remain in Coto disputed area where they were before their deprivation by Costa Rica on February 21 last, and provided Costa Rica advances no further toward said area, and provided Costa Rica withdraws its troops to the left side of the Sixaola River, which is the northern boundary frontier over which they have this morning advanced, without prejudice to Panama of any rights for indemnity or redress for wrongs committed by the invading troops on the civil population as to which up to this time Panaman authorities have had no opportunity to obtain information, said changed status to be assumed for the purpose of Department of State taking steps set forth in its cablegram of last midnight."

PRICE

718.1915/310 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, March 4, 1921—5 p.m.

[Received March 5—12:42 a.m.]

52. Panaman Minister for Foreign Affairs this afternoon sends a note in which he states that although the Panaman Government had not heretofore asked the intervention of the United States to expel the Costa Ricans from Coto, it had never refused to accept its aid but had invoked it in manner least onerous for the United States and most satisfactory to Panaman national sentiment, that of soliciting arms for its volunteers; that the situation has changed today; that Costa Rican Government by her repeated efforts to evict Panama from its possession of Coto on the ground that the White award had adjudged it to be their territory has now invaded the eastern side of Sixaola River adjudged by both Loubet and White awards to be Panama's and of which Costa Rica has never had possession; that Costa Rican forces have taken Guabito and now marching on Almirante and Bocas repeating on larger scale and with aggravating cir-

cumstances the acts of illegal warfare committed in the region of Coto.

“The Government of Panama which has declined to remove its forces from its own territory for the sole reason of maintaining intact the good right which supports it in this contest, which has desired to maintain itself within the limits of its just defense, which has declined to take measures of coercion in Bocas del Toro so as not to affect the powerful American interests established in that region, sees with surprise, greater each day, what is occurring in the Province of Bocas del Toro and with anxiety asks itself what is to be the attitude of the Government of the United States in the presence of these last events of which Your Excellency already has perfect knowledge. Your Excellency, consider the extreme gravity of present situation and obtain from the Department of State in Washington in the quickest time possible a declaration touching the manner in which that Government understands its obligations towards Panama in these movements in the light of first article of the Hay-Bunau Varilla treaty⁷¹ inasmuch as the territorial and political integrity of our Republic is affected by acts of illegal war for which the Government of Costa Rica is responsible.”

PRICE

718.1915/325a : Telegram

The Secretary of State to the Chargé in Costa Rica (Thurston)

WASHINGTON, March 5, 1921—6 p.m.

14. You are instructed to convey immediately the substance of the following to President Acosta :

The Department of State has today been informed that Costa Rican troops have invaded the territory adjudged by the White award to be that of Panama and that they are now advancing on Almirante and Bocas del Toro. This information, which appears to be confirmed, has caused the Government of the United States the gravest concern. This Government desires to urge upon the Government of Costa Rica in the most earnest manner, immediate compliance with its recommendation that instructions be given to its forces between the *status quo* line and the Cerro Pando-Punta Burica line to advance no further and that immediate instructions be issued to those troops which have advanced into Guabito and which are now approaching Almirante and Bocas del Toro to withdraw at once to the northern bank of the Sixaola River.

This Government recognizes the fact that the controversy with respect to the boundary between Costa Rica and Panama has been finally determined by the award of Chief Justice White as arbitrator, and desires to urge upon the Government of Costa Rica the importance of immediate cessation of hostilities to the end that appropriate settlement be promptly made in an orderly manner in accordance with Chief Justice White's decision. This Government cannot

⁷¹ For text of treaty, see *Foreign Relations*, 1904, p. 543.

regard forcible measures by either party as justifiable. Representations of a similar nature are being made to the Government of Panama.

Report at once by cable the reply of the Costa Rican Government to the above message.

For your confidential information, the Department is of opinion that this long-standing controversy must be settled in accordance with the White award, unless parties otherwise voluntarily agree. With this information, you should be able to procure immediate compliance with above message. Ships are being sent to protect American lives and property.

HUGHES

718.1915/313: Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, March 5, 1921—6 p.m.

20. Your March 4, 4 p. m.

Obtain at once an audience with President Porras and communicate to him the gratification of the Department upon receipt of the advice which it construes to mean that the Government of Panama will comply with the suggestions of the Government of the United States, as communicated in the Department's telegram of March 3, 12 midnight. Inform the President that the Department is advised that the invasion by Costa Rican forces of Guabito and of Almirante Bay has been made in the asserted right of retaliation for the advance by Panaman troops from Coto to the Gofito River. You should express the concern of the Department that Panaman troops should have been permitted to advance further into the territory of Costa Rica. Also advise the President that the Department has expressed to the Government of Costa Rica the concern which it has been caused by the invasion of Panaman territory and has earnestly urged the Government of Costa Rica to withdraw such forces as are now occupying Panaman territory to the north bank of the Sixaola River.

This Government recognizes the fact that the controversy with respect to the boundary between Costa Rica and Panama has been finally determined by the award of Chief Justice White as arbitrator, and has urged upon the Government of Costa Rica the importance of immediate cessation of hostilities to the end that appropriate settlement be promptly made in accordance with Chief Justice White's decision. While holding this view the Department does not regard the forcible measures taken by Costa Rica as justifiable and believes that arrangements should be effected to carry out the White

award, involving the suitable transfer of jurisdiction in an orderly manner and with due regard for the national dignity of Panama.

For your confidential information, the Department is of the opinion that this long-standing boundary controversy must be settled in accordance with the White award unless the parties otherwise agree, and this Government cannot recognize any claim of right on the part of Panama at variance with that award. Ships are being sent to protect American lives and property.

HUGHES

718.1915/341a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, March 7, 1921—6 p.m.

23. Your March 6, 11 p.m.⁷²

You may inform President Porras that the Department of State was today advised by the Government of Costa Rica⁷³ that in reply to the message of this Government—to which reference is made in Department's March 5, 6 p.m. to you—instructions had been given for the Costa Rican troops which had invaded the territory of Panama on the Atlantic Coast to withdraw immediately to the line of the Sixaola River and for the Costa Rican troops on the Pacific Coast to advance no further. In view of this fact, the Government of the United States confidently expects that all hostilities will cease and that the troops of Panama will be withdrawn to the Cerro Pando-Punta Burica line.

HUGHES

718.1915/337 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, March 8, 1921—1 p.m.

[Received March 9—12:45 a.m.]

62. After quoting practically Legation's note, which was in reality a paraphrase of Department's 23, March 7, 6 p.m., the response of Panaman Minister for Foreign Affairs to same as follows:

“My Government authorizes me to state to Your Excellency that it [has] given instructions already to our military forces that they retire from Coto; but that our civil and police authorities will remain there as before the Costa Rican aggression of the 21st of last month; and that this act of Panama, inspired in the desire of putting an end

⁷² Not printed.

⁷³ Telegram no. 39, Mar. 6, from the Chargé in Costa Rica; not printed.

to the armed conflict which has been imposed upon it against its will should not be interpreted in any case as an implied recognition of the White award which the Executive power, the Legislative Assembly and the public opinion of Panama have jointly refused to accept since 1914, the year in which it was rendered.

I do not wish to close, Mr. Minister, without having Your Excellency to take note that the Republic of Panama was enjoying the benefits of internal and external peace, applying itself to work, to the cultivation of the arts and the sciences, and in friendly relations with all the peoples of the earth when suddenly like a thunderbolt out of a clear sky fell the unexpected and unjustified attack upon it by the Government of Costa Rica. Whatever may be the result of the mediation interposed by the Government of the United States in the armed conflict which to our grief Costa Rica has imposed upon us, Panama reserves the right of establishing and of making effective in the course of the mediation the responsibilities which Costa Rica has incurred by reason of its unqualifiable attack and of demanding the obligation of indemnifying us for the damage caused and for the expenditures of the defensive expedition which by its fault we have seen the necessity of equipping and organizing."

Panaman President in my interview this morning when I presented Department's March 7, 6 p.m., stated that the troops would be withdrawn. I could not obtain until late this afternoon, however, a note to that effect, and the first one received stated that the Government was going to give instructions. Upon my complaint the note was changed to above after orders being telephoned for delivery to commander of the troops. About 5 p.m. U.S.S. *Tacoma* will reach Progreso and the neighborhood of Golfo Dulce about noon tomorrow.

PRICE

718.1915/368a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, *March 15, 1921—8 p.m.*

28. You are instructed to communicate the following note at once in writing to President Porras :

The Government of the United States has been advised by the American Legation in Panama of the receipt from the Government of Panama of a note dated March 4⁷⁴ in which, after referring to the efforts of the Costa Rican Government to evict Panama from its possession of Coto and to the invasion by Costa Rica of the territory on the east of the Sixaola River, the Government of Panama requests a declaration of the manner in which the Government of the United States understands its obligations toward Panama in relation to these events and in the light of the first Article of the Hay-Bunau Varilla Treaty. The Government of

⁷⁴ See telegram no. 52, Mar. 4, from the Minister in Panama, p. 180.

Panama states that the territorial and political integrity of the Republic has been affected by what it terms the acts of illegal warfare committed by the Government of Costa Rica.

By Article 1 of the Hay-Bunau Varilla Treaty, it is provided that the Government of the United States "guarantees and will maintain the independence of the Republic of Panama". The Government of the United States fully recognizes the obligation thus assumed, and its recent communications to the Governments of Panama and Costa Rica have been dictated not only by its manifest interest in the maintenance of peace but by its recognition of its duty in the circumstances disclosed. The Government of Panama cannot fail to realize that in order that the Government of the United States may fully perform its obligation under the treaty it must advise itself as to the extent of the sovereignty of the Republic of Panama and hence of the territorial limits of Panama. It follows that the Government of the United States deems it necessary to inquire fully into the merits of a controversy which relates to the boundary of the Republic of Panama. This Government has no doubt that the Government of Panama will also recognize that there is implicit in the provisions of the Hay-Bunau Varilla Treaty an undertaking on the part of Panama to observe faithfully its international obligations. The guaranty given to the Republic of Panama by the United States is obviously conditioned upon that performance.

It appears that the question which has been raised by the Government of Panama with respect to the boundary between Panama and Costa Rica has two aspects: (1) with respect to what may be termed the Pacific side of the Cordillera, and (2) with respect to the Atlantic side. The Government of the United States deems it to be beyond controversy that the boundary line on the Pacific side was determined by the arbitral award of His Excellency, the President of the French Republic, on the 11th of September, 1900. The line on the Pacific side, as thus determined, was unequivocally accepted by both the Republic of Panama and the Republic of Costa Rica in the Porras-Anderson Treaty of March 17, 1910.⁷⁵ In Article 1 of that treaty it is stated that the Republic of Panama and the Republic of Costa Rica "consider that the boundary between their respective territories designated by the arbitral award of His Excellency the President of the French Republic, the 11th of September, 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera near the 9th degree of north latitude."

Notwithstanding this fact the Government of Panama apparently has taken no steps to fulfill its obligation to recognize the territory on the Costa Rican side of that line as subject to the jurisdiction of the Government of Costa Rica but has continued to exercise jurisdiction over the territory beyond that boundary until the present time. It is to be observed that it is in that territory, belonging to Costa Rica, that Coto is situated. Because of the obligations and special interests of the Government of the United States, because of the

⁷⁵ See telegram of Sept. 27, 1910, from the Minister in Panama, *Foreign Relations*, 1910, p. 820.

obligations on the part of Panama, and because of the earnest desire of this Government that the Government of Panama shall maintain the most friendly relations with its neighbors in order that its own welfare and prosperity may be enhanced and that its territorial and political integrity may be free from attack, this Government considers it to be an unavoidable duty to request the Government of Panama at once to take steps to confirm the boundary line from Punta Burica to a point in the central Cordillera north of Cerro Pando, near the 9th degree of north latitude, by relinquishing its jurisdiction over the territory on the Costa Rican side of that line, as defined by the Loubet award, and by transferring such jurisdiction to the Government of Costa Rica in an orderly manner.

The controversy which remained, after the award of His Excellency the President of the French Republic, over the remaining portion of the boundary line between Panama and Costa Rica, on the Atlantic side, was submitted to the arbitral decision of the Chief Justice of the United States by the two governments concerned, under the provisions of the Porras-Anderson treaty of March 17, 1910. Article I of this convention provides:

"ARTICLE I. The Republic of Costa Rica and the Republic of Panama, although they consider that the boundary between their respective territories designated by the arbitral award of his Excellency the President of the French Republic, the 11th September 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera, near the ninth degree of north latitude, have not been able to reach an agreement in respect to the interpretation which ought to be given to the arbitral award as to the rest of the boundary line, and for the purpose of settling their said disagreements agree to submit to the decision of the Honorable the Chief Justice of the United States, who will determine, in the capacity of arbitrator, the question: What is the boundary between Costa Rica and Panama under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the 11th of September, 1900.

In order to decide this the arbitrator will take into account all the facts, circumstances, and considerations which may have a bearing upon the case, as well as the limitation of the Loubet award expressed in the letter of his Excellency M. Delcassé, Minister of Foreign Relations of France, to his Excellency Señor Peralta, Minister of Costa Rica in Paris, of the 23rd November, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined by the Convention of Paris between the Republic of Costa Rica and the Republic of Colombia of the 20th January, 1886."

Both Panama and Costa Rica explicitly agreed to abide by the award. Its conclusive character was defined by Article VII of the Treaty, as follows:

"ARTICLE VII. The award, whatever it be, shall be held as a perfect and compulsory Treaty between the High Contracting Parties. Both High Contracting Parties bind themselves to the faithful execution of the award and waive all claims against it.

The boundary line between the two Republics as finally fixed by the arbitrator shall be deemed the true line and his determination of the same shall be final, conclusive, and without appeal.

Thereupon a Commission of Delimitation shall be constituted in the same manner as provided in Article II with respect to the Commission of Survey, and shall immediately thereafter proceed to mark and delimitate the boundary line, permanently, in accordance with such decision of the arbitrator. Such Commission of Delimitation shall act under the direction of the arbitrator, who shall settle and determine any dispute as to the same."

The Chief Justice of the United States accordingly determined the boundary line between Costa Rica and Panama on the Atlantic

side. His award was made in 1914. It gave to Costa Rica a portion of the territory claimed by Panama and to Panama a portion of the territory claimed by Costa Rica.

It would serve no useful purpose to enter into an extended discussion of the reasons which underlay the award of the Chief Justice of the United States, since these reasons are expressed with the utmost clearness in his decision. In an elaborate opinion, the Chief Justice of the United States dealt with the terms of submission, his jurisdiction as arbitrator under the submission, and with the line which should be drawn defining the boundary between Panama and Costa Rica from the Cordillera to the Atlantic. The award of the Chief Justice is definite and unmistakable.

The Government of the United States has noted with deep concern the statement contained in the communication addressed by the Panaman Minister for Foreign Affairs to the American Legation on March 8,⁷⁶ to the effect that the action taken by the Government of Panama in retiring its military forces from Coto "should not be interpreted in any case as an implied recognition of the White award, which the executive power, the legislative assembly and the people of Panama have jointly refused to accept since 1914, the year in which it was rendered." This Government understands that in refusing to accept the award of the Chief Justice of the United States the Government of Panama has urged that the Chief Justice exceeded his jurisdiction as arbitrator. This Government, mindful of its duty to examine this contention in order that it may fully discharge its obligation in the circumstances, and with the utmost regard for the interests of Panama and the earnest desire that her just rights should be maintained, has been unable to find any ground upon which this contention can be advanced.

In dealing with the Loubet award, the Chief Justice of the United States, under the express terms of Article I of the Porras-Anderson treaty had regard to the limitation expressed in the letter of his Excellency M. Delcassé of 23rd November, 1900, to which Article I refers, "that this boundary line must be drawn within the confines of the territory in dispute as determined by the Convention of Paris between the Republic of Costa Rica and the Republic of Colombia of the 20th January, 1886." Finding that "the line of boundary of the previous award from Punta Mona to the Cordillera was not within the matter in dispute or within the disputed territory" as determined by the Convention of 1886, the arbitrator treated that line as non-existing, and it was then incumbent upon the arbitrator to substitute a line which was "most in accordance with the correct interpretation and true intention of the former award." This duty of the arbitrator arising from the Treaty was fully recognized in the Statement submitted to him on behalf of the Republic of Panama, and it is set forth by the arbitrator in his opinion that his power and duty in this respect were conceded by both parties. The Chief Justice explicitly adjudged that the boundary between the two countries "most in accordance with the correct interpretation and true intention" of the former award was a line which he defined as starting at the mouth of the Sixaola River in the Atlantic and thence, as described, to the point near the 9th degree of north

⁷⁶ See telegram no. 62, Mar. 8, from the Minister in Panama, p. 183.

latitude, "beyond Cerro Pando" referred to in Article I of the Porras-Anderson Treaty, and that line was decreed and established as the proper boundary between Panama and Costa Rica on the Atlantic side.

This Government finds no basis for the contention that the arbitrator exceeded his powers and his award, according to the express terms of the Porras-Anderson Treaty, became "a perfect and compulsory treaty between the High Contracting Parties" and both Panama and Costa Rica bound themselves to its faithful execution and waived all claims against it. They have agreed that "the boundary line between the two Republics as finally fixed by the arbitrator shall be deemed the true line and his determination of the same shall be final, conclusive, and without appeal."

The Government of the United States therefore feels compelled to urge upon the Government of Panama in the most friendly, but most earnest manner, that it conclude, without delay, arrangements with the Government of Costa Rica for the appointment of the Commission of Engineers provided for by the terms of Article VII of the Porras-Anderson treaty in order that the boundary line laid down by the decision of Chief Justice White may be physically laid down in a permanent manner and in accordance with the findings of the award.

It is to be hoped that the Government of Panama will recognize that motives of true and impartial friendship for the Governments of Panama and Costa Rica prompt the making of these representations to the Government of Panama. The Government of the United States would view with apprehension a continuance of this dispute, which has already given rise to hostilities with attendant loss of life, if such a continuance were caused by the refusal on the part of the Government of Panama to carry out obligations which it has bound itself solemnly to perform. This Government, therefore, deems it its duty to ask that the Government of Panama definitely indicate its intention to comply with the representations made to it by the Government of the United States.

You are instructed to cable the Department as soon as a copy of this note has been delivered to the President. Upon receipt of advice from you to this effect, a copy of the note will be given to the press and will be transmitted to the American Legation at San José for communication to the Government of Costa Rica.

HUGHES

718.1915/378

The Secretary to President Harding (Christian) to the Secretary of State

WASHINGTON, March 19, 1921.

MY DEAR MR. SECRETARY: By the direction of the President, I am sending you the enclosed copy of a cablegram from President Porras, of Panama, together with a copy of the President's reply.

Sincerely yours,

GEO. B. CHRISTIAN, Jr.

[Enclosure 1]

*President Porras to President Harding*PANAMA, *March 18, 1921.*

Demand from State Department that my government would accept White's decision is painful and humiliating. More so when two successive legislatures and all the municipalities in the Republic have petitioned for the rejection of that decision on the ground that the arbitrator notoriously exceeded its [*his*] jurisdiction, giving to Costa Rica more than what her representative Peralta asked from President Loubet and also because it is against the provisions of Panama's constitution. I appeal therefore directly to you, Mr. President, recalling your kind words with which you expressed your friendship and good wishes towards my country when you honored us with your visit in November. I address myself to the magistrate who loves justice and equity so that my country's cause be better appreciated and that we may be classified amongst the nations with self consciousness and dignity that feels herself deeply wounded with the State Department's demand.

I beg of you, Mr. President, to use your personal, political and administrative influence so that the boundary dispute between Panama and Costa Rica may have a solution more in accord with justice and dignity than the one which we are being asked to accept. We Panamanians are confident in your righteousness and we hope that that confidence will not be rewarded with disappointment.

PRESIDENT PORRAS

[Enclosure 2]

*President Harding to President Porras*WASHINGTON, *March 19, 1921.*

The communications from our State Department to the government of Panama and the government of Costa Rica have been sent with the full knowledge and hearty approval of the Executive. It would be exceedingly distressing to me to believe that the Government of Panama has cause to feel wounded or to assume, for any reason, the government of the United States is in any way unmindful of our peculiarly friendly relationship, with a recognized mutuality of interest. The friendly expressions made in your presence informally, last November, are repeated now, and there is deep concern for full justice in the exercise of our friendly relationship. It must be apparent, however, that the decision of the Chief Justice of the United States, in an arbitration submitted to him, and reached after exhaustive study and rendered in fullest devotion to justice must be the unalterable position of this government.

WARREN G. HARDING

[In March 1921 the Government of Panama brought the dispute to the attention of the League of Nations, but the League suspended action upon learning that the good offices of the United States had been accepted by both Costa Rica and Panama and that a satisfactory settlement was in prospect.]

718.1915/438

The Minister in Panama (Price) to the Secretary of State

[Extract]

No. 2940

PANAMA, *April 12, 1921.*

[Received April 21.]

SIR: Reporting further upon the Panaman-Costa Rican situation and confirming Legation's cablegram No. 87 of yesterday, 11 a.m., and No. 88 of same date, 8 p.m.,⁷⁷ I have the honor to enclose (enclosure No. 1), a translation in full of the reply and of the enclosure which accompanied it,⁷⁸ referred to in said cablegrams, of the Secretary of Foreign Affairs of Panama to the last note of the Department to the Government of Panama,⁷⁹ asking for compliance by Panama with the Award of Chief Justice White and the delivery in an orderly manner of the disputed boundary area on the Pacific side to Costa Rica.

I have [etc.]

WILLIAM JENNINGS PRICE

[Enclosure—Translation⁸⁰]

The Panaman Minister of Foreign Affairs (Garay) to the American Minister (Price)

S. P. No. 784.

PANAMA, *March 18, 1921.*

YOUR EXCELLENCY: I have the honor to refer to the important communication from Your Excellency, dated the 16th of the present month, marked F. O. No. 1080, in which Your Excellency incorporated the text of a note from the Department of State in Washington intended to be made known to His Excellency the President of Panama,⁷⁹ who directs me to answer it in the following terms.

The very complicated questions presented today for our consideration in connection with the offer of its good offices which the Department of State at Washington made to the Government of Pan-

⁷⁷ Neither printed.⁷⁸ Enclosure to reply not printed.⁷⁹ See telegram no. 28, Mar. 15, to the Minister in Panama, p. 184.⁸⁰ File translation revised.

ama with a view of ending its present conflict with the Government of Costa Rica, have to be considered by Panama from a double point of view, according to whether the United States assumes toward us the character of a friendly mediator—as by its recent offer—or the character of a guarantor of our independence, in conformity with article I of the Canal Treaty.⁸¹

It is far from my thoughts, Mr. Minister, that the suggestions contained in Your Excellency's note, above referred to, may have any other character than that of a friendly and well-intended suggestion, so appropriate from a great power which has made the peaceful and just solution of international conflicts one of its most constant desires. The good offices and the mediation which the Department of State, first, and Your Excellency, in the name of your Government, later, were kind enough to offer to Panama, oblige this Republic to respond to these cordial advances and kindly desires with the frankness, fullness, and sincerity which the circumstances demand, and to analyze these suggestions and counsels in the light of our national interests and our international obligations. If, then, as an amicable mediator, Your Excellency's Government is in this matter giving us suggestions and advice from the viewpoint of arbitrating a basis of settlement and understanding between Panama and Costa Rica, as a guarantor of the independence of Panama, the acts of Your Excellency's Government would show a different aspect and would bring up for consideration rights and obligations which in this case I ought to analyze and discuss with the frankness and loyalty which our special relations demand.

The Department of State says, in its cablegram incorporated in Your Excellency's note which I am answering, that the obligation assumed by the Government of Your Excellency to guarantee the independence of the Republic of Panama, implies the investigation, by that Government, of the territorial limits to which the sovereignty of Panama extends, and that this obligation carries with it the corollary of studying thoroughly the merits of the boundary controversy between Panama and Costa Rica. To these declarations my Government opposes no objection, as they concern the internal policy of the United States; we note, simply, that the guarantee of our independence is the principal obligation assumed by Your Excellency's Government in return for very valuable and very liberal concessions which it obtained from Panama by virtue of the same treaty, and that by reason of their generosity were the object of astonishment in the Senate of the United States. This guarantee, therefore, is understood to be in the interest of the country guaranteed, and should have for its object the defense of the sovereignty of Panama accord-

⁸¹ *Foreign Relations*, 1904, p. 543.

ing to its titles of dominion, its jurisdictional rights, and rights of possession, and all the actions and interests which result from them and are dependent on them. As this guarantee has in the Canal Treaty no express limitation contrary to the rights and actions of Panama, there is no reason whatever for establishing such by inference, and the Government of Panama in this respect does not admit restrictive interpretations. The rights of jurisdiction and territorial sovereignty of Panama, such as this nation understands and interprets them, whether they emanate from colonial titles, from acts of possession, or from arbitral decisions, should be in their integrity and without limitation protected by the contractual guarantee stipulated in article I of the treaty, and whatever restriction introduced into the application or interpretation of this obligation would constitute a modification of the treaty, to which Panama has not given, nor can give, its consent or its approval.

The territorial rights which the Loubet Award conferred upon Panama and which were consecrated in the Constitution of the Republic have not been in any way nullified by the decision of Chief Justice White, since Panama, using its clear rights, declined to accept it. Costa Rica not having agreed to execute the Loubet Award, just as Panama, in her turn did not accept the White Award, the rights of possession and jurisdiction which Panama had never ceased to exercise remained in force over the territories which the Loubet Award took from Colombia on the Pacific coast, as compensation for those adjudicated to her on the Atlantic. Complying then with the obligation assigned to the Government of the United States by the first article of the Hay-Varilla Treaty, that Government is jointly liable with Panama in the defense of all the rights and interests accruing to Panama from her titles of dominion and from immemorial possession.

Therefore, in the present status and until there shall be a new arrangement or treaty which may change the relations of the rights between Panama and Costa Rica, my Government declares in a manner most definite and solemn that the sovereignty of Panama extends throughout all the Panaman line of the *status quo* and that the guarantee of the sovereignty, stipulated in article I of the Canal Treaty, should extend likewise to those limits. Moreover, that guarantee should protect not only the *de facto* sovereignty which Panama exercises up to the line of the *status quo* or *uti possidetis* of 1810, but also the *de jure* sovereignty which she enjoys over all the territory conceded to the Republic by virtue of the Loubet Award, solemnly accepted in principle by the two countries adjoining. This was the conception of Your Excellency's Government in 1906 when that eminent jurist and statesman, the Honorable Elihu Root, held the office of Secretary of State, as is evidenced in his note no. 37 of the

16th of April, 1906,⁸³ communicated to this Chancellery on the 21st of December, 1908, by Minister H. G. Squiers, Your Excellency's predecessor. The pertinent paragraphs of this note say:

"It can not be denied that the *de jure* sovereignty has been in Colombia and Panama since the Loubet Award, accepted as it is by Panama and Costa Rica, so that either by virtue of that award, or of the pending boundary treaty (Guardia-Pacheco), the territory will ultimately remain under the jurisdiction of Panama."

And further on is added:

"In the Department's conception of this matter, Costa Rica exercises a temporary *de facto* sovereignty over the territory included in the McConnell plantation, subject of right to be divested at any time and at the initiative of Panama, but actually continuing until such time as the pending boundary treaty is ratified. She exercises the powers of Government that are necessary for the orderly administration of the district, but should not use this sovereignty in such a way as to impair the rights of the *de jure* sovereignty of the territory. Her functions of government are limited by her tenure which is of a temporary and precarious character. Her duty is to preserve the property, not to destroy it, and to hand it over to her successor without the commission of any act tending to impair the ultimate rights of the *de jure* owner."

It is a principle of modern international public law, consecrated by the Allied nations in the Treaty of Versailles and subscribed to by the neutrals in the Pact of the League of Nations, that even the semi-civilized countries placed under the mandate of any great western power, possess the right to have the exercise of that mandate inspired by the exclusive interests of the people under the mandate, to the absolute exclusion of the interest of the mandatory. And if this is so, when it concerns the former German colonies of Africa, how can it be maintained, with the remotest show of reason, that a guarantee contracted by a public treaty between two sovereign nations of our continent is to be understood in any other way than as instituted in the exclusive interest of the guaranteed nation, without restrictions or limitations which do not appear in the treaty and are not presumable under the law?

From the beginning of her boundary differences with Costa Rica, Panama sustained the thesis that the Loubet Award was one and indivisible, that it should be accepted as a whole or rejected bodily, and contingent upon this theory established as the basis of the arbitral compromise of 1910,⁸⁴ as it had done before in the Guardia-Pacheco Treaty, the solemn declaration ratified in writing that both countries accepted the Loubet Award in all its parts. Panama con-

⁸³ *Foreign Relations*, 1906, pt. 2, p. 1201.

⁸⁴ *Ibid.*, 1910, p. 820.

sidered this award as a precious legacy to whose preservation the Republic was committed, not only by virtue of a constitutional provision clear and precise, but also with respect to the vital interests of the Republic, by the duties which it had undertaken for itself and for future generations. In the opinion of this Chancellery, article I of the Hay-Varilla Treaty does not constitute the United States judge and arbitrator of the territorial rights and actions of Panama in relation to its neighbors, but simply a guarantor of its independence and integrity, such as results or may result from its rights and titles, and this conventional obligation involves a moral obligation of the United States of America toward the country which more than any other has contributed to its present greatness and power; the country which made its own, without being deterred by any scruples of neutrality, the cause of the United States in the World War, and which has been at all times its best friend and most faithful ally, without forgetting on this account its duties of self-preservation which are primordial for any state.

The Department of State says that according to the arbitral pact of 1910, Panama bound itself to accept the decree of arbitration and to consider it final and conclusive, and this assertion is correct if there is added in continuation: by means of essential conditions which were stated in writing in the same agreement and for the observance of which the plenipotentiary of Panama never ceased for an instant to press. But as the principal condition of the pact was not respected by the Arbitrator, but was, on the contrary, explicitly rejected by him, Panama's refusal to accept the award in this form has left its honor safe and the country absolved from all compromise. For the rest, declarations of this kind, which are proper in arbitral compromises, are never understood as prejudicing the legitimate rights of the parties, nor can they be alleged to legitimize a denial of justice through the exceeding of powers or through any other failure of those who bring about the nullity of the award.

Permit me, Your Excellency, to remind you in this connection that the Republic of Costa Rica bound herself in a form even more solemn to accept the award offered by the President of the French Republic in its dispute concerning boundaries with Colombia, agreeing in this form: "The arbitral decision, whatever it may be, will be considered as a perfect and obligatory treaty between the High Contracting Parties, and will admit of no appeal. Both parties agree to its faithful execution and renounce all protest against the decision, pledging thereto their national honor."⁸⁵

⁸⁵ From article 4 of the boundary convention of Nov. 4, 1896, the purpose of which was to carry out the conventions concluded at San José, Costa Rica, Dec. 25, 1880, and at Paris, Jan. 20, 1886.

Nevertheless, Costa Rica always avoided the fulfillment of the award and not only was no appeal made to the sense of honor of that nation, but actually she was aided afterwards in an efficient manner to evade compliance with a sacred international obligation. Panama on this account complains of being the object of unfair treatment, which she considers that she in no way deserves.

In effect, if compliance with its international obligations were an explicit condition for making available to Panama the contractual guarantee stipulated in article I of the Hay-Varilla Treaty, this Government could remain tranquilly sure of its external security. It has fulfilled—even to excess—these obligations, and by fulfilling them in good faith finds itself confronted with the difficulties of the present situation.

The respect which it showed for the rights of possession of Costa Rica and its dislike of violent and arbitrary methods when the Loubet Award assigned to Costa Rica control of the two banks of the Sixaola, are in contrast with the effrontery with which Costa Rica took possession in 1909 of the west bank of the Sixaola, in spite of the repeated protests of Panama, and with the novel method put in practice by the former country a few days ago in order to assume jurisdiction over territories inhabited exclusively by Panamanians, cultivated by the sweat of Panamanian brows and which always have been under the jurisdiction of Panama.

The international obligations of Panama are necessarily limited by its right of self-preservation, the defense of our territorial patrimony, included in our fundamental charter, and the jurisdictional rights depending upon its secular possession. Whatever may be the opinion which the Government of Your Excellency may have formed concerning the attitude of Panama in its boundary controversy with Costa Rica, it cannot deny—because this is a point upon which there can be no discussion—that this attitude has been from the first one and invariable and that our present rights do not rest upon the White Award—not recognized by us—but upon that of the Loubet Award, recognized but not executed by Costa Rica.

The manner in which Your Excellency's Government views in the note referred to the question of boundaries between Panama and Costa Rica, dividing it into two parts—one on the Atlantic, the other on the Pacific, independent of each other—is not in accord with the conception which the Government of Panama has formed on the question. It is precisely the indivisible character of the obligation which the line of the award imposed on the two countries, which my Government invariably sustained before Arbitrator White; and it is opposed to the pretension of Costa Rica of dividing this obligation to burlesque it piecemeal, taking advantage of the Loubet

Award in that which favored her and repudiating it in that which prejudiced her in order to obtain later, through an interpretative award, the annulment of the compensation which the Loubet Award gave to Panama on the Atlantic side, in such a way that this decision has assumed in the eyes of public opinion in Panama the proportions of a symbol of injustice, exasperating the national sentiment which has expressed itself in unmistakable manifestations of general discontent.

Just as in civil matters one of the parties can not adduce in his favor a decision or proof, taking advantage of it when it favors him and rejecting it when it prejudices him, so in international matters it is not legitimate to avail oneself of what is exclusively favorable in an award and repudiate the rest; and it is this universal principle of law, common to all the bodies of law of the world, which Costa Rica has desired to have annulled for her benefit and to the injury of Panama.

This Government again reminds Your Excellency that in accepting as clear and unquestionable the line of the Loubet Award which runs from Punta Burica to a point in the Central Cordillera, above Cerro Pando, near the 9th degree of north latitude, it did not do this by virtue of a mutual agreement with Costa Rica, as might be pretended by interpreting tortuously the pertinent stipulation of article I of the Porras-Anderson agreement, but by virtue of the obligation to which Panama was subject under the Loubet Award. This obligation came from the award as a whole; but once the latter was rejected as "nonexistent" by the Honorable Chief Justice White and the White Award in turn was rejected by Panama, the acceptance by this Government of a partial line of the award on the Pacific brought about for it the lapse of the agreement and the arbitral award as sources of obligations, and the situation of Panama with regard to Costa Rica continued to be governed in fact by the *status quo* and in right by the Loubet Award.

The arguments contained in the note of Your Excellency and intended to persuade the Government of Panama that it ought to accept as good and valid the White Award, are doubtless based on the sincere but erroneous belief that Panama has at sometime agreed to be despoiled, in two successive acts, first of her territorial rights on the Pacific, and afterwards of her territorial rights on the Atlantic. The Porras-Anderson agreement, which gave birth to the White Award, is not a boundary treaty but a simple arbitral agreement, which lapsed with the nonacceptance of the award by Panama. There does not exist, therefore, a Porras-Anderson boundary treaty, as the note from the Department of State seems to suppose, but

a simple arbitral agreement which ceased legally to exist when this Government notified Costa Rica, the Arbitrator, and Your Excellency's Government, that the White Award lacked obligatory force for it and was null and void so far as it was concerned. The belief of the Government of Your Excellency visibly rests on a misunderstanding or on a confusion, and the undersigned feels special satisfaction in being able to contribute by means of these explanations toward the reestablishment of the true position of Panama in the conflict, and to rectify the erroneous concept which seems to prevail in the Government of the United States concerning the alleged concessions or admissions or unfair acts to which this Government might have consented.

Much error and uncertainty have been injected into the views of the Department of State by the wholly gratuitous assertion contained in the award of the Honorable Chief Justice White, and which the Department accepts in its cablegram of the 15th of the present month, that "Both parties recognize that in accord with this convention the power and the duty exist to substitute for the line set aside, a line within the scope of the authority granted under the previous treaty." As Your Excellency will see later, this assertion is absolutely without foundation as far as concerns the Republic of Panama.

Your Excellency's Government observes that the White Award gave to Costa Rica a portion of the territory which Panama claimed and to Panama a portion of the territory which Costa Rica claimed. This observation, which would be exact in speaking of the Loubet Award, is not so when applied to the White Award; and it is precisely because in this observation there throbs a noble impulse of equity—which does honor to the Government at Washington, at the same time that it makes clear its imperfect knowledge of the material under discussion—that this Government has profound faith in the success of its cause and expects confidently that with a more complete knowledge and an idea more exact of the rights and the attitude of Panama, we will see a radical change in the spirit and in the attitude of the Department of State.

This fundamental error in conception explains the opinion which the Government of the United States seems to hold sincerely today, that Panama has carried its patriotic zeal very far, perhaps to the detriment of its agreements and international obligations; but I do not doubt for an instant that a government loving peace, justice, and right, like that of Your Excellency, will, once the facts which have contributed to form its opinion are rectified, know how to do honor to the spirit of rectitude, loyalty, and conscientiousness with which Panama has labored to comply with its internal and

external duties in the boundary dispute which for so many years it has maintained with Costa Rica. The assertion that the award of Chief Justice White is "definite and unmistakable," doubtless reveals a conviction very profound and worthy of appreciation; but from it with all respect and with an abundance of reasons, the Government and people of Panama have permitted themselves to dissent from 1914 to the present date.

There is also an argument of great weight which I do not care to overlook at this point because I believe that it may influence strongly the Government of Your Excellency to reconsider its recent attitude toward Panama. It is this: When the United States suggested to Panama⁸⁶ the idea of availing herself of the former's mediation to settle by peaceful methods her boundary dispute with Costa Rica, with respect to the interpretation of the Loubet Award, Panama responded wholeheartedly to this suggestion; and I say wholeheartedly because she did not limit herself to accepting it, but, having absolute confidence in the sense of justice which distinguishes the American nation, she wished to establish as a previous condition to her acceptance the guarantee on the part of the United States that Costa Rica would accept as final the decision which the Honorable President of the Supreme Court of Justice of the United States might pronounce. In this sense Don C. C. Arosemena, our Minister in Washington, made request of Secretary of State *ad interim*, the Honorable Huntington Wilson in note 29 of the 20th [23d] of October, 1909,⁸⁷ and in this sense our Chancellery in the note of the 2d of November of the same year to our Minister in Costa Rica notified him, he being later charged with the defense of our rights in the arbitral proceedings due to open shortly in Washington. To these advances of this Government the Government of Your Excellency did not believe it wise to accede, and in note no. 14 of the 2d of November, 1909,⁸⁸ the Secretary of State, the Honorable Philander C. Knox, answered our Minister in Washington that "As to the finality and binding character of the award, whichever it may be, this Government cannot doubt the good faith of the parties to the arbitration, and while not asking for a formal engagement on the part of either or both, would have pleasure in receiving assurance from Panama as well as from Costa Rica that the award shall be accepted as final." Events have demonstrated the admirable wisdom and foresight with which the Government of Your Excellency acted in those days, preventing Panama from now having to struggle with the obstacle of a guarantee or a formal pledge

⁸⁶ See instruction no. 137, Dec. 1, 1908, to the Minister in Panama, *Foreign Relations*, 1910, p. 775.

⁸⁷ *Ibid.*, p. 797; Mr. Wilson was serving as Acting Secretary of State during the temporary absence of the Secretary.

⁸⁸ *Ibid.*, p. 798.

asked for by itself, notwithstanding that this pledge or this guarantee in no case would have annulled the right which every nation or individual has, not to be denied justice nor to be condemned without being heard, which is, in short, the only thing which Panama claims today. Because it is nothing else than denying her justice and condemning her without a hearing to place the case in a sphere in which Panama lacked arms to fight with Costa Rica on an equal footing. The archives which had served Colombia for the defense of the case which it maintained before Arbitrator Loubet, are now inaccessible to Panama, as they were to Arbitrator White, and to reopen without these elements the historical aspect of the case would be to deliver Panama, unarmed and with breast uncovered, to the well-aimed blows of a fully prepared adversary. On different occasions our lawyers and counselors thus pleaded before the Arbitrator, without succeeding in getting him to mention anywhere in his extensive award this prime consideration, founded on the most elemental notion of equity. In the award there appear only isolated observations which however well they corroborate the legitimacy of Panama's claim, do not take into consideration the element of justice involved in our allegation. For example: "The whole record which was before the former Arbitrator is not shown to be a part of this record, but neither party disputes, if they do not in terms concede, that the substantial facts which I have previously stated were embraced in the record for the purposes of the prior arbitration. Before making the award and as an aid in doing so, the Arbitrator appointed a commission of distinguished officials of the French diplomatic corps, and in addition the Keeper of the Maps in the National Library, to consider the subject presented by the arbitration. The written report of that Commission, if any was made, is not in this record." Nevertheless, the Arbitrator ignored entirely the work of his predecessor, in place of interpreting it, without having been able to acquaint himself with the elements which had served to form the award.

The earnest desire of the Arbitrator seems to have been set on suppressing the boundary of mountain peaks imagined by the President of France to be the most natural and permanent barrier between the two adjacent countries, substituting for it a fluvial boundary exposed to the action of great floods, to the changes of the river beds, and other inconveniences which make it very inferior, without perhaps remembering that since the rest of the line had been accepted by Panama and Costa Rica as clear and unquestioned and therefore withdrawn from the action of his interpretation, half the boundary would be constituted by chains of mountains or spurs of the Cordillera, while the other half would be purely fluvial.

This result, at variance with the homogeneity of the frontier system between the two countries is sufficient evidence that the Loubet Award did not lend itself to revision basically without introducing into it confusion and disorder in its handling.

As the lawyers of Panama did not suppose that the line of the award could have another substituted for it by the Arbitrator nor that the terminal points explicitly accepted by the two parties and the Mediator, would be deviated from, this Government made no effort toward the defense of its rights in the event that there should be adopted a fluvial boundary, and there is not a line in our allegations and statements that remotely contemplates this possibility; it is in this sense, Mr. Minister, that I have permitted myself to state that Panama was condemned without being heard and is worthy of having her case made the object of a careful and conscientious examination, as we can hardly consider satisfactory the explanation of this fact given by the Arbitrator in his same award when he says: "In the argument of this case Costa Rica stated a formal decree which it deemed should be entered upon the hypothesis that the award here made should be against the mountain line and in favor of the Sixaola-Yorquin line, and no objection to the form of such proposed decree has been made by Panama."⁸⁹

One of the elements which has most contributed to increase confusion in this case and to bewilder the general understanding, is the letter which the Minister of Foreign Affairs of France, M. Delcassé, sent in 1900 to the Costa Rican Minister in Paris, Señor Peralta, in reply to one which the latter had sent him to obtain from President Loubet a declaration concerning his intentions as Arbitrator. The Minister from Costa Rica expounds in this letter the interpretation which the Government of Costa Rica gives to the Loubet Award and adds: "This interpretation conforms with the evident intentions of the Arbitrator and with the configuration of the territory as well as with the terms of the agreement of arbitration. It corresponds perfectly to the desire to establish with accuracy and permanence a natural frontier and varies only very little from a straight line drawn between Punta Mona and Punta Burica, which is, so to speak, the fundamental idea of the Arbitrator." To these expressions, very clear and significant, M. Delcassé agreed stating that "through lack of precise geographical data, the Arbitrator has not been able to determine the boundary further than by means of general indications," and that "there would be inconvenience in determining them with precision on a map." And he added: "It will be necessary for the Republics

⁸⁹ *Foreign Relations*, 1914, p. 1014.

of Colombia and Costa Rica to proceed with the material determination of their frontiers." All this which is so clear, so sensible, and so logical, it has been desired to transform into a veritable riddle, by means of and thanks to the explanations of the other side, and it has been taken as a basis for pretending that Arbitrator Loubet assented to a revision of the award. There is no such evidence. It is well known that every decision concerning boundaries, whether between nations or private parties, consists of two parts, delimitation and demarcation. In the first part, that of delimitation, the tribunal traces from its office and in general terms the dividing line, taking into consideration all the elements of fact and law which the parties have adduced in their favor. This operation ends the first part of the case and leaves pending the second part, the demarcation, in which the tribunal, assisted by experts and men conversant with the art, goes to the actual place involved in the controversy and proceeds actually to demark, upon the ground, the dividing line between the two nations of the two estates. It is then that they start to solve the problems which geographical accidents and material difficulties place in the way of the delimitation. The letter of M. Delcassé, written when the Arbitrator had just finished dictating his award and ending the first part of the case, the only one which could be brought to a conclusion in France, had no other significance. That which then remained pending, the delimitation, could not be settled except upon the actual ground and to this M. Delcassé refers when he says: "That the Arbitrator defers at this point to the spirit of conciliation and good will which have until now inspired the two Governments in the case." Returning to the terms of the letter from Señor Peralta in which he records the interpretation given to the Loubet Award by the Government of Costa Rica, permit me, Your Excellency, to point out, because the point is of the greatest importance to Panama, that the Government of Costa Rica there claimed much less territory than that which the Arbitrator, Chief Justice White, assigned to her in his award of 1914, and this act alone is another obvious demonstration of the lack of equity in the award.

That which the two Governments of Panama and Costa Rica submitted to the decision of the Arbitrator, was their two interpretative lines of the Loubet Award: that of Panama was formulated at the end of his argument by the Plenipotentiary, Dr. Morales, and the lawyers, Messrs. Cromwell and Hill, and that of Costa Rica was formulated by the Plenipotentiary, Señor Peralta, in his already cited letter to M. Delcassé of the 29th of September, 1900, and was reiterated to this Government by the Minister of Foreign Affairs

of Costa Rica in his notes to our Minister in San José on the 15th of June and on the 13th of August, of 1909, which said respectively:

“The Plenipotentiary of Costa Rica could not have signed a declaration referring to this point, without making the reservation which my Government had already presented before the Chief Justice, and before the Government of Colombia. In other words, Minister Pacheco could not have recognized the force of the Loubet Award, except on the understanding that the dividing line determined by general landmarks in the award given in Rambouillet, would follow the directions determined in the note directed to Señor Delcassé the 29th of September, 1900, since otherwise the force of the award would be entirely undermined.”

And the other:

“If the Award has not been executed, it has only been on account of differences of interpretation of its terms, something which should have been considered beforehand in order to be able to judge its purpose. From the beginning, Costa Rica has understood it in the form which Señor Peralta expressed to the Arbitrator, and that Your Excellency cites in part. So that, if it is thus to be definitely understood, my Government stands ready to deliver the territory of Gandoca and to recover that of Punta Burica. In the meantime both Republics have reason and right to maintain the possession of *de facto* line agreed upon as a provisional boundary.”

In his message to the Congress of Costa Rica in 1909 President González Víquez expressed himself thus: “As the Guardia-Pacheco Treaty has expired, it would be in order, unless there should be an agreement by both to determine the boundary line, to decide which of the two interpretations of the Loubet Award is that which conforms to the spirit of the award, and to resort to a new arbitration.” Also the Department of State of the United States in a note of the 20th of October, 1909,⁹⁰ addressed to the Minister of Panama to the United States and signed by the Secretary, *ad interim*, the Honorable Huntington Wilson, affirms this view of the points which are going to be the subject of arbitration: “I desire to express my great satisfaction at the cordial attitude of Panama in accepting the good offices of this Government and in submitting to the Chief Justice of the United States, as sole Arbitrator, the final decision of the question as to which of the two boundary lines between Panama and Costa Rica is the correct one.” And shortly afterwards this same Government in Washington under the signature of the titular Secretary, Honorable Philander C. Knox, in an official note addressed to the Minister of Panama in Washington on the 2d of November, 1909,⁹¹

⁹⁰ *Foreign Relations*, 1910, p. 796.

⁹¹ *Ibid.*, p. 798.

confirms this perfect understanding in these terms: "This Government has assumed that the two parties were in discord as to a part of the Loubet Award, and that all that is wanted is for each to submit its interpretation as to that part of the line in disagreement, and invite the Arbitrator to determine which of those two interpretations is the correct one under the Loubet Award."

In proof that it was thus agreed upon in truth and in conscience, I shall remind Your Excellency that when the Government of Panama agreed that the Chief Justice of the Supreme Court of the United States should decide as Arbitrator the correct interpretation of the award, the Department of State in Washington expressed to this Chancellery that the two terminal points of the Loubet line, Punta Mona and Punta Burica, would remain intact. It thus appears in the note of the 2d of February, 1910, addressed by Secretary Knox to the Minister from Panama⁹² in which he says: "This Government represents further, and suggests that, considering these facts, the terminal points of the Loubet Award should now be finally agreed to as accepted by both parties, namely, Punta Burica and Punta Mona." The same declaration is contained in the cablegraphic instruction from Mr. Knox for the American Legation in Panama dated 1st of February, 1910, transmitted to this Chancellery by note of that Legation, no. 262 of the 5th [3d] of the same February.⁹³

This statement was later corroborated in general terms by cablegram from the same Secretary Knox to the Secretary of Foreign Affairs of Panama, in which it is declared under date of the 12th of March of the same year, that the arbitral agreement celebrated between Panama and Costa Rica, thanks to the mediation of the United States, "sacrifices no right of Panama".⁹⁴

In spite of all these promises, solemnly made by one Government to another, the Arbitrator reconsidered the basis of the arbitral proceedings, rejected the line of the award as nonexistent, repudiated the two interpretative lines of the parties, substituted for Punta Mona—a point of departure which was solemnly binding—the mouth of the River Sixaola, and would have sacrificed the rights of Panama if this country had accepted his award.

Thus as concerns the attitude of the Chancellery of Panama and of our lawyers before the Arbitrator, no one ever admitted the remote possibility of an annulment of the Loubet Award, as seems to be understood by the Department of State in the despatch to which

⁹² *Ibid.*, p. 804.

⁹³ *Ibid.*, p. 806.

⁹⁴ See telegram of Mar. 12, 1910, to the Chargé in Panama, *ibid.*, p. 814.

I refer. I refer Your Excellency to the memorandum which my colleague the Secretary of Government and Justice, now on Special Mission to the Government at Washington, placed in the hands of Ex-Secretary of State Colby a few days ago.⁹⁵ In this document which has already seen the light of publicity in this capital, there are numerous transcriptions of the allegations of Panama before the Arbitrator which dissipate any belief or supposition in this respect.

My Government has only feelings of gratitude and appreciation for the Government of Your Excellency for the very suggestive and friendly declarations with which it has intervened to point out to this Government the advisability of respecting the White Award, and this Government is sure that a conscientious reconsideration of the circumstances, conditions, and facts which have been involved in this complicated affair, as well as the particular reasons which have determined the conduct of Panama, will as a result give most complete justification for our attitude and with it the presentation of new suggestions on the part of the Government of the United States concerning the best form of reaching a definite agreement with Costa Rica which would guarantee a lasting and sincere peace in the Central American Isthmus. Any other solution which leaves out of the case our rights of possession in the Pacific and does not consult the dictates of international equity, would be a seed bed of discord and conflicts which would confuse the situation instead of clarifying it and would nullify the humanitarian and civilizing intentions contained in the offer of good offices from Your Excellency's Government.

Your Excellency is not ignorant of the fact that a recent consultation of the public opinion of this country, of the National Assembly, and of the Municipalities of the Republic, concerning the recommendation which the Government of the United States made to Panama to the effect that we should adopt the White Award as the basis of mediation in the recent conflict provoked by Costa Rica, resulted in an overwhelming confirmation of the precedent established in 1914. A resolution was unanimously adopted by more than 200 persons, representing all the social classes of the capital, who were present at a meeting called by the undersigned in the National Institute to sound their opinion on the subject; another resolution was adopted by unanimous vote of the national Legislative Assembly on the 10th of this month; the resolutions adopted by all the 62 municipal councils of the Republic and the opinion set forth without a single discordant note by the organs of the national press are clear demonstrations that the country stands as one man in disavowing the White Award. Under these conditions, no truly repre-

⁹⁵ Not printed.

sentative government in Panama would dare to adopt this decision as the basis of mediation in our differences with Costa Rica.

I attach to this note an official copy of the one which I addressed some time ago to the Government of Costa Rica in the form of a protest against the acts of violence of which we were recently the victims and which contain a summarized statement of the rights on our side.⁹⁶ I trust that that note together with the explanations contained in this one may contribute toward dissipating the prejudices, obscurities and confusions which have accounted in large part for the fact that the Department of State of the United States has not seen clearly from the beginning the reasons and basis of the claims of Panama in its boundary dispute with Costa Rica.

The Government of Panama has relied always on the spirit of justice of the Great People of the United States, for which it feels the most profound admiration, and is sure that Your Excellency's Government which is the genuine representative of this great and justice-loving people, may receive in considerate and benevolent manner the claims of Panama and will cease its efforts to recommend to her the acceptance of a decision upon which public opinion has already given its final word and which has passed among us into the category of things decided.

Sheltered under the aegis of international law which protects equally nations large and small, the Republic of Panama has refused to accept the decision of the eminent Chief Justice White with the same right, and almost for the same reasons, with which Your Excellency's Government declined in 1831 to accept the decision of the King of the Netherlands in the boundary dispute between the United States and Great Britain.⁹⁷ "The proceedings of the Arbitrator", said the Minister of the United States to The Hague, on this occasion, "constitute an exceeding of his powers, because he abandons the limits of the agreement and substitutes for them a different line."

This Government, desirous of cooperating in the laudable efforts which the Government of the United States is at this moment making to secure peace and justice in the Central American regions now disturbed as a result of this boundary controversy, permits itself to reiterate to Your Excellency the terms of my note S. P. No. 505, of the 2d of the present month,⁹⁸ in which at the request of Your Excellency I confirmed the suggestion made by His Excellency the President of the Republic of Panama in one of the frequent inter-

⁹⁶ Enclosure not printed.

⁹⁷ See Hunter Miller (ed.), *Treaties and Other International Acts of the United States*, vol. 3, pp. 359 ff.

⁹⁸ Not printed.

views which we have been holding in the Presidential Palace in connection with the events in Coto. That suggestion, which earned from the first the high regard and the praises of Your Excellency, might serve, it seems to me, as an acceptable basis of agreement between the two countries. I am referring to a double plebiscite: one in the Pacific zone and one in the Atlantic zone, in order to decide definitely and forever to which of those two adjoining countries should belong the sovereignty and jurisdiction over the disputed zones. The nationals of both countries would freely indicate their desire of living under the sovereignty of Panama or Costa Rica, and the operation could be carried out by commissioners from both Governments with the mediation of the United States. The two plebiscites should be limited in the mentioned zones to the territory included between the line of the *status quo* and that of the Loubet Award, one *de facto* and the other *de jure*, and both accepted by the two contending Governments.

My Government hopes that the Department of State may receive this suggestion with favor. Consulting the wish of the inhabitants is a civilized and just method of putting an end to this class of conflicts and may well furnish honorable and durable bases for a satisfactory and definite arrangement between Panama and Costa Rica. It must be understood, however, that this final suggestion cannot be carried further than allowed by the constitutional authority which the Executive power of Panama has to negotiate international understandings *ad referendum*, that is to say, referring them to later consideration by the Legislative power. This notice becomes even more opportune when referring to our western frontier which was definitely fixed by article III of the national Constitution and whose alteration would imply an amendment of the Fundamental Charter.

In repeating here the suggestion for a plebiscite, the Government of Panama accedes in the best possible manner to the exhortation which Your Excellency was pleased to make in days past that between us we should devise plans and seek solutions susceptible of putting an honorable end to the question of boundaries that in these moments is cause for unrest for the interested Governments and for the mediating Government.

I should add before ending—and in this my Government most particularly insists—that nothing which has been said should under any circumstances be taken as lack of courtesy or appreciation for the eminent jurist who presides over the Supreme Court of the United States, to whose honorableness and accomplishments my Government renders the homage of its respect. Only the defense of the interests and rights of the Republic, as well as the inescapable duty

which every government has of resisting injustice, have placed this Chancellery in the hard necessity of freeing itself from the conclusions of the Arbitrator, Mr. White, and of discussing the bases of his award.

I avail myself [etc.]

NARCISO GARAY

718.1915/438 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, April 27, 1921—5 p.m.

38. You are instructed to obtain an audience with President Porras and to deliver to him the following note:⁹⁹

“The Government of the United States has received the note dated March 18, 1921,¹ sent by the Government of Panama to the American Legation on April 12, 1921, and received by the Department of State on April 21, 1921, referring to the note addressed by this Government to the Government of Panama on March 16, 1921.² The Government of the United States, before passing to the consideration of the questions raised in the note under acknowledgment, considers it would be lacking in candor and in true friendliness to the Republic of Panama if it did not express to the Panaman Government the surprise and regret which the contents of the note have caused it.

The Government of the United States believes that its views regarding the boundary dispute between Panama and Costa Rica, as well as its opinion as to the only just and equitable solution of that dispute, have been indicated with such clarity to the Panaman Government that an extended discussion of the contentions advanced by the Government of Panama should be unnecessary. As a further evidence however, of its friendly consideration for the Republic of Panama, which this Government has never failed to manifest, the Government of the United States desires to make the following statements at this time in order that there may be no room for doubt as to the reasons for the insistence of this Government that the Government of Panama comply with its international obligations.

The Government of Panama, in its references to the note addressed to it through the American Legation on March 16, appears to overlook the fact that the Government of Panama on March 4,³ had requested this Government to declare the manner in which it understood its obligations towards the Republic in the light of the first article of the Hay-Bunau Varilla Treaty. While the note above referred to contained suggestions as to the course which it was believed the Government of Panama should follow, which were offered by this Government as the friendly mediator in the dispute, the note also contained the expression of the views of this Govern-

⁹⁹ In a telegram dated Apr. 29, the Department instructed the Minister in Panama to postpone delivery of the note until May 2.

¹ *Ante*, p. 190.

² See telegram no. 28, Mar. 15, to the Minister in Panama, p. 184.

³ See telegram no. 52, Mar. 4, from the Minister in Panama, p. 180.

ment as the guarantor of the independence of Panama. This Government believes that it would be inadmissible to interpret its obligations to the Republic of Panama as embracing an obligation to support any claims for adjoining territory which might be advanced by the Government of Panama, no matter what the opinion of this Government might be as to the validity or justice of these claims and without the limitation obviously implied in the first article of the Hay-Bunau Varilla Treaty. The Government of the United States has already indicated to the Government of Panama what it understands its obligations to be, and must again state, in the most positive manner, that its duty to guarantee and maintain the independence of Panama requires it to inquire into the merits of any controversies relating to the boundaries of the Republic of Panama in order that it may satisfy itself as to the true extent of the territory of Panama and obliges it to assure itself that the Government of Panama faithfully performs its international obligations. The fact that the "rights of jurisdiction and territorial sovereignty of Panama", as stated by the Government of Panama, emanate "from colonial titles, and from acts of possession, or from arbitrary decisions", so far as the Republic of Panama is vested with these rights of jurisdiction and territorial sovereignty, cannot be deemed as in any way entitling the Government of Panama to demand the occupation of territory which is not a part of the Republic of Panama and has been conclusively adjudged to belong to Costa Rica.

With respect to the finality of the Loubet award, as to that portion of the boundary line in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera near the 9th degree of north latitude, this Government cannot now regard that line as being in question which the Republic of Panama has heretofore formally, by treaty, stated to be "clear and indisputable."

As to the statement contained in the note of the Government of Panama that it does not accept as correct an attempt to separate the boundary question into two parts, it should be sufficient to point out that this separation was unequivocally recognized by the Porras-Anderson agreement between the Republic of Panama and the Republic of Costa Rica, when it was set forth that there was no question with respect to the portion of the boundary line in the region of the Pacific, as above described, while the other portion of the line was to be made the subject of arbitral award. Upon this point this Government believes it necessary only to repeat the words of the first paragraph of Article I of the Porras-Anderson Treaty of March 17, 1910, as follows:

"ART. I. The Republic of Costa Rica and the Republic of Panama, although they consider that the boundary between their respective territories designated by the arbitral award of his Excellency the President of the French Republic the 11th September, 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera, near the 9th degree of north latitude, have not been able to reach an agreement in respect to the interpretation which ought to be given to the arbitral award as to the rest of the boundary line, and for the purpose of settling their said disagreements agree to submit to the decision of the Honorable the Chief Justice of the United States, who will determine, in the capacity of arbitrator, the question: What is the boundary between Costa Rica and Panama under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the 11th September, 1900?"

"In order to decide this the arbitrator will take into account all the facts, circumstances, and considerations which may have a bearing upon the case, as well as the limitation of the Loubet Award expressed in the letter of his Excellency M. Delcassé, Minister of Foreign Relations of France, to his Excellency Señor Peralta, Minister of Costa Rica in Paris, of the 23rd November, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined by the Convention of Paris between the Republic of Costa Rica and the Republic of Colombia of the 20th January, 1886."

Moreover, the fact that the boundary line on the Pacific side could no longer be the subject of dispute was specifically set forth in the communication from the Legation of Panama at Washington to the Secretary of State of the United States under date of October 20, 1914,⁴ in which it was stated:

"By the terms of the convention the line of the Loubet award was recognized as binding upon the parties. As to about one-half of that line (from Punta Burica to a point beyond Cerro Pando) it was expressly stated that no question whatever existed, and that portion of the boundary is in no way involved in the present arbitration."

The contentions which have been heretofore advanced by the Government of Panama, and are reiterated in the note under consideration, with respect to the award of the Chief Justice of the United States as to the boundary line on the Atlantic side, cannot be deemed by this Government to affect in any manner the finality of the Loubet award with respect to the boundary line upon the Pacific side, and that territory which was adjudged to be a portion of the territory of the Republic of Costa Rica by a boundary line which the Republic of Panama formally declared "clear and indisputable", still remains, in the opinion of this Government, the territory of Costa Rica, and is to be respected as such. This Government must point out that no argumentation can change the fact that this territory belongs to the Republic of Costa Rica and that the Republic of Costa Rica is entitled to have its jurisdiction set up and maintained therein by orderly processes. There appears to this Government to be no foundation for the claim that the Government of Panama is entitled to retain territory on the Pacific side which confessedly does not belong to Panama because the Government of Panama is not satisfied with the award of the Chief Justice of the United States as to other territory on the Atlantic side.

Nor is this Government able to find any valid ground for objection to the award of the Chief Justice of the United States with respect to the latter territory. The Government of the United States has given careful consideration to the documents to which the Government of Panama referred in its note under acknowledgment bearing upon the jurisdiction of the arbitrator. This Government has not been able to find in these documents any justification for the assertion that the interpretations of the Loubet award on the Atlantic side advanced by the Governments of Panama and Costa Rica defined the scope of the new arbitration. On the contrary, it seems to this Government to be entirely clear that the powers and jurisdiction of the arbitrator cannot be thus limited. Provision is made for the powers and jurisdiction of the arbitrator

⁴ *Foreign Relations*, 1914, p. 994.

in terms which cannot be questioned in Article I of the Porras-Anderson Treaty already quoted. In that Article, the two parties definitely agree to submit to the arbitrator the determination of the question: "What is the boundary between Costa Rica and Panama under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the 11th September, 1900?", and this question the arbitrator determined. The two Governments agreed in Article VII of the same Treaty that the "award, whatever it be, shall be held as a perfect and compulsory treaty between the High Contracting Parties", and both parties bound themselves "to the faithful execution of the award and waive all claims against it." When the Chief Justice of the United States, after exhaustive review of the contentions advanced by the two Governments, determined that the boundary between the two countries as defined in his award was the one "most in accordance with the correct interpretation and true intention" of the former award, the arbitrator decided the precise question which the submission had invested him with jurisdiction to decide, and the two parties to the dispute were, by their most solemn engagement, bound to accept his determination accordingly.

In the opinion of this Government, it would be impossible to ignore the effect of this decision upon the ground that the Chief Justice of the United States should have recognized some other line than the one which he found to be most in accord with the true intention of the prior award, or that he should have given weight to claims which, in the exercise of his undoubted jurisdiction, he determined were without foundation.

This Government must again direct attention to the fact that not only did the Chief Justice of the United States determine explicitly what he was authorized to determine, but that in the process of determination he was most careful to observe the directions set forth in Article I of the Porras-Anderson Treaty. In the second paragraph of this Article, as above quoted, it was provided that the arbitrator was to take into account the limitation of the Loubet award expressed in the letter of His Excellency, M. Delcassé, of the 23rd of November 1900, that this boundary line "must be drawn within the confines of the territory in dispute as determined by the Convention of Paris between the Republic of Costa Rica and the Republic of Colombia of the 20th January, 1886". It would seem to be obvious that in the discharge of his duty it was incumbent upon the arbitrator to decide what were the confines of the territory in dispute, as determined by the Convention to which reference is made, in order that he might comply with the terms of the submission as to the drawing of the boundary line within these confines. Mindful of this obligation, the arbitrator did consider and determine, as he undoubtedly had jurisdiction and duty to consider and determine, what were the confines of the territory in dispute, and this Government finds no basis whatever for the suggestion that having determined this preliminary fact, the arbitrator was without authority to draw the boundary line accordingly. On the contrary, having made the determination as to the extent of the territory in dispute, he was bound by the explicit provisions of the submission to draw the boundary line within that territory.

The Government of the United States is unable to find any warrant for the contention of the Government of Panama that if any part of the line fixed by President Loubet did, in fact, lie outside the limits of the territory in dispute as fixed by the Convention of 1886, it was then the duty of the arbitrator to go no further, that is, to make no award. That would have been in direct antagonism to the terms of the submission and it was in that event the duty of the arbitrator to draw, within the territory in dispute, the line which, under this limitation, he deemed to be most in accord with the true intention and correct interpretation of the former award. This duty was recognized by the Republic of Panama in its statement submitted to the arbitrator which contains the following:

“But, if any part of the line fixed by President Loubet did, in fact, lie outside the limits fixed by the Convention of 1886, that part would require modification and it would be necessary for the present arbitrator to substitute for it such line as he should determine to be ‘most in accordance with’ what he should find to be the ‘true intention’ of the award.”

The Government of the United States is therefore unable to find any force in the contention now made by the Government of Panama in reiteration of the claims that it has made since the award, that the arbitrator by drawing this substitute line exceeded his powers and jurisdiction.

From every point of view, therefore, when the Chief Justice of the United States as arbitrator fixed the boundary line on the Atlantic side as starting at the mouth of the Sixaola River and thence running as described to the point near the 9th degree of north latitude beyond Cerro Pando on the Central Cordillera, he acted in exact compliance with the obligation imposed upon him by the acceptance of the submission. The Republic of Panama and the Republic of Costa Rica are, therefore, bound by his arbitral award which they have promised to accept as final.

The Government of the United States has taken note of the statement of the Government of Panama referring to the expressions of public opinion in the Republic of Panama, which it states evidence the unanimity of the people of Panama against the recognition of the White award. The Government of the United States has learned of these expressions with deep regret. It feels confident, appreciating as it does, the love of right and justice which has always animated them, that the people of Panama will recognize the obligation of their Government to comply with the terms of the solemn agreements into which it has entered, a compliance which will afford the only permanent settlement of the boundary dispute between the Republics of Panama and Costa Rica.

In the light of the obligation of the Government of Panama, under Article VII of the Porras-Anderson Treaty, requiring that Government faithfully to execute the award and to waive all claims against it, and to consider the award as a perfect and compulsory Treaty between the Governments of Panama and Costa Rica, the Government of the United States cannot consider the suggestion made by the Government of Panama that a plebiscite be held in the territory in dispute as a means of reaching a final settlement of the controversy. For the same reason, and also because of the obligations of this Government towards the Republic of Panama, the Govern-

ment of the United States cannot consider offering any suggestions to the Government of Panama other than the recommendations contained in the note of March 16. This Government is glad to receive from the Government of Panama the expression of its appreciation of the friendly purposes of this Government and of its confidence in the spirit of justice animating the people of the United States. It is precisely because of its friendship for the Republic of Panama, as well as because of its desire to assure itself that the peace of Central America is maintained on a stable basis guaranteed by the scrupulous observance of international obligations, that the Government of the United States feels compelled to state that it expects the Government of Panama to take steps promptly to transfer the exercise of jurisdiction from the territory awarded to Costa Rica by the Loubet award, at present occupied by the civil authorities of the Government of Panama, in an orderly manner, to the Government of Costa Rica. Unless such steps are taken within a reasonable time, the Government of the United States will find itself compelled to proceed in the manner which may be requisite in order that it may assure itself that the exercise of jurisdiction is appropriately transferred and that the boundary line on the Pacific side, as defined in the Loubet award, and on the Atlantic side, as determined by the award of the Chief Justice of the United States, is physically laid down in the manner provided in Articles II and VII of the Porras-Anderson Treaty.

It is with the utmost regret that the Government of the United States feels itself obliged to communicate to the Government of Panama this determination which it has reached after the most careful and friendly deliberation. Its decision has been arrived at because of the special interest of this Government in the Republic of Panama and because of its belief that only by compliance with the reasonable expectations of the Government of the United States in this matter can the welfare of Panama be promoted and its friendly relations with the neighboring Republics of America be assured."

When the President has ascertained the contents of the note, you should inform him that the Government of Panama may interpret the phrase the "reasonable time" in which the Government of Panama may of its own accord take the steps suggested by this Government before the United States will feel compelled itself to take action to see that its recommendations are carried out, as a period of 60 days from the date of the receipt of this note by President Porras. You may advise the President further that this Government, with the desire to make the compliance by the Government of Panama with its recommendations as easy as possible, will not make this fact public at the present time.

Cable Department as soon as you have delivered the note to the President in order that publication thereof may be made here.

HUGHES

718.1915/467: Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, May 12, 1921—6 p.m.

45. Your 102, May 11, 8 p. m.⁵

You may inform President Porras that the Department cannot consider his suggestion that the period of 60 days, within which the Government of Panama was informed this Government expected it to comply with its suggestions in regard to the boundary dispute, be extended, if that extension is requested with the intention on the part of the Government of Panama to endeavor to reach some agreement with the Government of Costa Rica for a settlement of the controversy along lines other than those already indicated by the Department. In view of the agreement which has previously been reached between the Governments of Costa Rica and Panama, and in view of the just insistence of the Government of Costa Rica that the boundary line as defined in the Porras-Anderson Convention and in the arbitral award of the Chief Justice of the United States rendered thereunder be accepted as the boundary between the two Republics, this Government cannot consider an extension of the period above referred to if such extension is requested by the Government of Panama with the hope that it may reach some other agreement as to the boundary with the Government of Costa Rica. If, on the other hand, the Government of Panama proceeds directly to enter into negotiations with the Government of Costa Rica in order that an agreement may be reached between the two Governments as to the procedure of determining the boundary line as above indicated, and it should later on appear that an extension of the period of 60 days was reasonably required for reaching this agreement as to procedure, the request of the Government of Panama would be given appropriate consideration.

HUGHES

718.1915/509

The Panaman Minister of Foreign Affairs on Special Mission (Garay) to the Secretary of State[Translation ⁶]

WASHINGTON, July 1, 1921.

MOST EXCELLENT SIR: In sending on this day to the President of Panama a report of the interview that Your Excellency so kindly granted me yesterday at 1 p.m., I have said as follows: that Your Excellency would be glad to have Panama and Costa Rica arrive

⁵ Not printed.⁶ File translation revised.

at a direct settlement of the boundary disputes pending between the two countries; that to that end Your Excellency had spontaneously offered me a reasonable extension of the time referred to in Your Excellency's instruction to the American Legation at Panama of May 2 last;⁷ that the Government of the United States would not take it ill if the Government of Costa Rica should enter upon direct arrangements with that of Panama nor would it consider it as a slight, and that Your Excellency had so advised Costa Rica; that Panama might avail itself of the extension of time to endeavor to reach a direct settlement with Costa Rica and Your Excellency added on this point—if my memory serves me—to appoint their respective boundary commissions.

With respect to that last sentence, there remains in my mind a doubt which I must clarify as soon as possible so as to be able to report in entire good faith to the President of Panama as to the true intentions and views of Your Excellency's Government.

The extension of time granted by Your Excellency, I understand, is mainly intended to facilitate a direct agreement between the parties concerned. The Government of the United States—according to what Your Excellency also said to me—is not interested in the matter which does not directly concern it, nor does it wish, therefore, to dictate the kind of solution that may be sought; and the appointment of boundary commissions cannot be considered except as a final consequence of the boundary agreement that the two countries may conclude.

The undersigned has not regarded this extension of time as subordinated *sine qua non* to the appointment of boundary commissions which would carry out on the ground a specified award but as a possibility offered to him to try to arrive at a solution of the conflict in closer accord with the aspirations of Panama and the dictates of reason and equity.

I have the honor to submit this point to Your Excellency's consideration and to ask you kindly to tell me, as soon as your many occupations will permit, whether I have correctly interpreted Your Excellency's words.

I avail myself [etc.]

NARCISO GARAY

718.1915/509

*The Secretary of State to the Panaman Minister of Foreign Affairs
on Special Mission (Garay)*

WASHINGTON, July 2, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of July 1, referring to the conversation which I had with Your Excellency on June 30.

⁷ See telegram no. 38, Apr. 27, to the Minister in Panama, p. 207.

In view of the evident misapprehension by Your Excellency of the statements which I made in the course of that interview, I feel that it is desirable without delay to set forth the following facts in reply to the inquiry contained in Your Excellency's note under acknowledgement.

It is true that the Government of the United States has no desire to prevent any direct settlement that may be reached between Costa Rica and Panama with respect to the boundary dispute between those two Republics. It is, however, not accurate to say that this Government has no interest in the solution, as it is manifest, from what has already taken place that this Government is deeply interested, in view of its special relation to the Government of Panama, that a peaceable solution should be arrived at. While it is quite agreeable to this Government to have a disposition of the dispute made directly between the Governments of Costa Rica and Panama, I pointed out to Your Excellency definitely that this Government would not make representations to the Government of Costa Rica to the effect that that Government should abate the demands which she was entitled to make of the Government of Panama under the Award of the Chief Justice of the United States. It was stated distinctly that this Government had no reason to expect that, in the absence of representations by the United States to Costa Rica, to the effect that that Government should abate its demands under the Award of Chief Justice White, the Government of Costa Rica would be content with anything less than that to which she was entitled under that Award. While, therefore, this Government recognized, of course, the theoretical possibility of an adjustment reached directly between the two Governments concerned, and the acceptability of any adjustment that might thus be made, it was distinctly stated that it did not appear to be within the range of reasonable expectation that any adjustment was possible except upon the basis of the fulfillment of the terms of the White Award.

It was in this sense, and in this sense alone, that any reference was made to an extension of the period referred to in the note communicated by the American Minister in Panama to the Government of Panama on May 2, last,⁸ to wit, that if the Government of Panama saw fit, as this Government hoped it might see fit, to arrange with the Government of Costa Rica promptly for a delimitation of the boundary between the two Republics in accordance with the White Award on the north and the Loubet Award on the south, it would be agreeable to the Government of the United States to grant a suitable extension of time to permit this to be done.

⁸ See telegram no. 38, Apr. 27, to the Minister in Panama, p. 207.

It is a misapprehension to suppose that any reference was made to an extension of time with the idea that the Governments of Costa Rica and Panama would be able to reach an adjustment on a basis different from that of the White Award, as this Government has no reason to suppose that any such an adjustment is possible and there would seem to be no reason for permitting an extension of time for such a purpose. The statement which I made to Your Excellency was simply that if this Government was advised that the Government of Panama would take up with the Government of Costa Rica the appointment of a Commission for the laying out of a boundary in accordance with the terms of the White Award on the north, for the demarcation of the boundary on the south as determined by the Loubet Award, and for the orderly transfer of jurisdiction over the territory lying to the north of the latter boundary, and that these negotiations were in progress, whatever time was reasonable for that purpose would very gladly be accorded by this Government, so that it might be spared the necessity of taking any further action in the matter.

With the hope that the statements which I have set forth above may remove the very evident misapprehension which exists in Your Excellency's mind as to the conversation held between us in our last interview, I avail myself [etc.]

CHARLES E. HUGHES

718.1915/547

*The Secretary of State to the Panaman Minister of Foreign Affairs
on Special Mission (Garay)*

WASHINGTON, July 29, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of July 21,⁹ referring to the boundary controversy between the Governments of Panama and Costa Rica. Your Excellency reviews in some detail the action taken by the Executive and Legislative branches of the Government of Panama in the past regarding this boundary dispute and states that the Executive Power of Panama, because of previous declarations by Legislative Assemblies of Panama, by the Municipalities of the Republic, and by meetings of certain prominent citizens of Panama, is legally and morally unable to accept the boundary line between Panama and Costa Rica defined by the award of the Chief Justice of the United States and by the award of President Loubet.

Your Excellency, by instruction of the Government of Panama, then requests, on the ground that a direct settlement of the dispute between Panama and Costa Rica is impossible in view of the insist-

⁹ Not printed.

ence of the Government of Costa Rica that the boundary determined by the two awards above referred to be accepted as the true boundary between the two Republics, that the following point, namely: "Is the White award consistent with the Arbitration Agreement of 1910, and is it or is it not valid for Panama?" be submitted to the arbitration of the permanent court of The Hague as provided by Article 38 of the Hague Convention for the peaceful settlement of international disputes. Your Excellency states that this request of the Government of the United States is made on the assumption that "the acts of the United States in the interests of Costa Rica have practically eliminated the last named Republic from the controversy, being replaced by the United States which has made the dispute its own and with which Panama has had and will have hereafter to come to an agreement by virtue of the expressed or tacit delegation of Costa Rica." Your Excellency continues by alleging that this condition of fact "is universally known and needs no proof on which to be established."

I desire first of all, in reply to Your Excellency's suggestions, to state that the Government of the United States cannot admit the contention of Your Excellency that Costa Rica has been eliminated from this boundary controversy or that the United States has in any sense replaced it in the said dispute. The intervention of the United States in the controversy, as already made manifest to Your Excellency, was due to two causes—first, because the friendly mediation of this Government was accepted by both the Governments involved in the dispute at the time that hostilities between the two Republics broke out; second, because of the obligation of the United States by virtue of Article I of the Treaty of 1903 between the United States and Panama, to guarantee and maintain the independence of the Republic of Panama. The intervention of the United States in the dispute was due to these two causes alone, and has not resulted in a replacing by the United States of Costa Rica in this controversy, nor has such delegation ever been made by Costa Rica either expressly or tacitly. The boundary controversy is one, therefore, which directly concerns only the Governments of Costa Rica and Panama, although the Government of the United States, because of its special relations to Panama, as well as because of its loyal and impartial friendship to both Republics is interested in seeing a friendly and speedy settlement of the dispute reached.

In reply to the suggestion of Your Excellency that the question above quoted be referred to The Hague Tribunal for decision, I desire to call Your Excellency's attention once more to the fact, already communicated to Your Excellency, that the Government of Costa Rica has officially advised the Government of the United States that it refuses to submit the controversy, or any portion of

the controversy, to a new arbitration, since it considers the boundary dispute settled and the boundary itself defined by the arbitral award of the Chief Justice of the United States as provided by the Porras-Anderson Convention between the Governments of Panama and Costa Rica. Your Excellency is likewise aware that this Government, because of the obligations assumed with regard to Panama, has taken under its most careful consideration the award rendered by the Chief Justice of the United States, and all the facts connected with the rendering of that award, and after a most painstaking investigation has reached the conclusion that the contention of the Government of Costa Rica is both just and well-founded.

In view, therefore, of the refusal of the Government of Costa Rica to submit this controversy to a new arbitration, and in view of its insistence that the boundary line between the two Republics defined on the Atlantic side by the award of the Chief Justice of the United States and on the Pacific side by the award of President Loubet be accepted by the Government of Panama as the proper boundary between the two Republics, and that the jurisdiction over the territory on the Pacific side adjudicated by the latter award to Costa Rica and still retained by Panama be transferred without delay to Costa Rica, the Government of the United States believes that the boundary line so defined should be confirmed by the Government of Panama and the jurisdiction over the territory in question should be transferred in an orderly manner to the Government of Costa Rica.

The Government of the United States confidently expects that the Government of Panama will, without delay, in the manner provided by the Constitution of the Republic, take the necessary steps to appoint a member of the boundary commission, as stipulated in Article II of the Porras-Anderson Convention, charged with the duty of laying down the boundary line between the two Republics defined in the arbitral award of the Chief Justice of the United States, and that the Government of Panama will likewise make immediately arrangements with the Government of Costa Rica for the orderly transfer to that Republic of the jurisdiction over the territory determined as pertaining to Costa Rica by the arbitral awards above mentioned.

Accept [etc.]

_____ CHARLES E. HUGHES

718.1915/525 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, August 1, 1921—6 p.m.

61. In view of the fact that the friendly mediation of this Government in the Panama-Costa Rica boundary dispute has been accepted by both Governments, you are instructed to transmit to the Minister

for Foreign Affairs the following formal requests which the Government of Costa Rica has requested¹⁰ this Government to forward to the Government of Panama:

"1. That, in fulfillment of Article 1, of the Anderson-Porrás Treaty, the transfer be made of the jurisdiction over the territory now occupied by the civil authorities of Panama that lies indisputably to the north of the Punta Burica-Cerro Pando line, which, according to that Article, was held by both parties to be clear and indubitable; and,

2. That, in accordance with the stipulations of Articles 1 and 7, of the same Treaty, the President of Panama appoint an engineer of his own choice to physically lay down the divisionary line and mark it by appropriate monuments."

You are instructed to inform the Minister for Foreign Affairs at the same time that the Government of Costa Rica desires the Government of Panama to be advised that the President of Costa Rica, by virtue of the Articles of the Treaty above referred to, has appointed as engineer Señor Don Luis Matamoros. You may likewise advise the Minister for Foreign Affairs that the Government of Costa Rica is requesting the Chief Justice of the United States to appoint two members of the Boundary Commission, as provided in the Anderson-Porrás Treaty.

Cable reply of the Government of Panama which will be transmitted by the Department to the Costa Rican Government.

HUGHES

718.1915/539: Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, August 6, 1921—3 p.m.

[Received August 7—11 a.m.]

130. Panaman Minister for Foreign Affairs now responds to note of Legation of last Tuesday pursuant to Department's telegram 61, August 1, 6 p. m.

"In response to said note I have the honor to declare to Your Excellency the following:

1. That the convention celebrated in Washington between the plenipotentiaries of Panama and Costa Rica, Dr. Belisario Porrás and Licentiate Don Luis Anderson, is not a boundary treaty but a mere arbitral pact.

2. That the declaration that the frontier traced by President Loubet is clear and indubitable from Punta Burica to Cerro Pando is the simple enunciation of a fact which does not deteriorate [*sic*] the right of Panama to continue occupying the region as far as

¹⁰ Note of Aug. 1, from the Costa Rican Minister; not printed.

the jurisdictional *status quo* line defined in a precise manner since 1880 and maintained before and after that date.

3. That if the declaration to which I refer in the preamble had had for its purpose to transfer to Costa Rica the territory situated to the west of the Punta Burica line, such transfer should have taken place from 1910, year in which the arbitral pact was celebrated; and there would be no possibility of explanation [*justification?*] for the tacit agreement of Costa Rica and of the United States, mediator between the two nations, with [*for?*] the occupation of that territory by Panama from 1910 until 1920, year in which took place the armed attack carried out by Costa Rica in a sudden manner and with no antecedent which could cause it to be anticipated.

4. That the arbitration agreed upon by the Porras-Anderson Convention has been carried to an end already and terminated by an award which unfortunately has resulted ineffectually in deciding the question of boundaries on account of the honorable arbitrator not having decided the question which was submitted to his decision.

5. That the award pronounced in the agreed arbitration being null the arbitration convention fell into disuse *ipso facto* and *ipso jure* and is therefore incapable of producing any effect.

6. That the Anderson-Porras Convention having lapsed the formal demands which the Government of Costa Rica makes are contrary to law; therefore Government of Panama declares that it does not accede to them, declares likewise that it will not consider itself affected by any acts whatever which may be exercised by an assumed demarcation commission constituted without its cooperation and its consent, and proclaims once more its right to continue occupying the region situated to the west of Punta Burica until the question of frontiers may be adjusted in some form which has juridical efficacy emanating from the sovereign will of the interested nations."

PRICE

718.1915/541

*The Panaman Minister of Foreign Affairs on Special Mission
(Garay) to the Secretary of State*

[Translation]

WASHINGTON, August 8, 1921.

MOST EXCELLENT SIR: As announced to Your Excellency in my previous note of this date,¹¹ I have the honor to send herewith to Your Excellency the original and an English translation of the letter I am addressing to the Chief Justice of the United States with regard to the request made of him by the Government of Costa Rica that he appoint two commissioners for the marking of the boundary line between Panama and Costa Rica defined by the late Chief Justice White in his award of September 12, 1914.

¹¹ Not printed.

I shall be thankful to Your Excellency if you will kindly cause to be delivered to the Honorable Mr. Taft the enclosed original and translation of which I take the liberty to enclose copies for Your Excellency's information.

Accept [etc.]

NARCISO GARAY

[Enclosure—Translation]

The Panaman Minister of Foreign Affairs on Special Mission (Garay) to the Chief Justice of the United States Supreme Court (Taft)

WASHINGTON, August 8, 1921.

YOUR HONOR: I have been advised that Your Honor has been requested by the Republic of Costa Rica to appoint two commissioners who shall delimitate and mark by appropriate monuments the line which the Honorable E. D. White defined in the Award rendered September 12, 1914 in his capacity as Arbiter conferred upon him by the Republics of Panama and Costa Rica through the Arbitral Compromise of March 17, 1910 and through the joint request addressed to him by the Plenipotentiaries of both countries on the 10th of July of the same year.¹²

Costa Rica bases its request to Your Honor on the text of articles II and VII of the aforementioned Compromise, which read as follows:

“Article II.—If the case shall arise for making a survey of the territory, either because the Arbiter shall deem it advisable or because either of the High Contracting Parties shall ask for a survey (in either of which cases it shall be made), it shall be conducted in the manner which the Arbiter shall determine upon, and by a commission of four engineers, one of them shall be named by the President of Costa Rica, a second by the President of Panama, and the two others by the Arbiter. The persons selected by the Arbiter shall be civil engineers in private practice, in every respect independent and impartial, and without personal interest of any kind as respects either Costa Rica or Panama, and not citizens or residents of either of said countries.

“Said Commission shall make detailed reports, with maps of the territory covered by their survey or surveys, which reports and maps, with the data relating thereto, shall be returned to the Arbiter and copies thereof shall be communicated to the High Contracting Parties.”

“Article VII.—The award, whatever it be, shall be held as a perfect and compulsory Treaty between the High Contracting Parties. Both High Contracting Parties bind themselves to the faithful execution of the Award and waive all claims against it.

¹² The communication requesting Chief Justice White to serve as Arbitrator was dated June 10, 1911; see *Foreign Relations*, 1911, p. 674.

"The boundary line between the two Republics as finally fixed by the Arbitrer shall be deemed the true line, and his determination of the same shall be final, conclusive and without appeal.

"Whereupon a Commission of Delimitation shall be constituted in the same manner as provided in Article II with respect to the Commission of Survey, and shall immediately thereafter proceed to mark and delimitate the boundary line, permanently, in accordance with such decision of the Arbitrer. Such Commission of Delimitation shall act under the direction of the Arbitrer, who shall settle and determine any dispute as to the same."

I have the honor to call Your Honor's attention to the fact that shortly after the late Chief Justice White rendered his Arbitral Award, the Republic of Panama fulfilled the unpleasant duty of informing the Chief Justice in a note signed by the Minister Plenipotentiary of the Republic of Panama in Washington,¹³ that his Award was null and void because he exceeded his powers, that it was not efficacious juridically to end the controversy, and that Panama did not consider itself bound to abide by the Award. Similar communications were sent at the same time to the Government of Costa Rica and to the Government of the United States.

Seven years have passed since and the nullity claimed by the Republic of Panama against the White Award has not been decided upon by any impartial tribunal in accordance with the precedents established by International Law.

The Award having been rejected by Panama because the Arbitrer who rendered it had exceeded his powers, the Arbitral Compromise that gave life to it, likewise ceased to exist, and Panama fails to see how that Compromise can be revived to-day and be made to produce juridical effects to the detriment of Panama.

The appointment of Commissioners to execute an arbitral award which Panama has rejected in the use of its rights as an independent and sovereign nation would be a direct attack on its sovereignty and independence, an act to which Your Honor assuredly will not be a party.

Also, the above quoted Articles of the Arbitral Compromise of 1910 can in no case be applied to-day since Article II has already been carried out when Arbitrer White appointed the Commission of Surveys which surveyed the territory in dispute, discovered the spur of the Cordillera, marked the summits which constitute the watershed, and defined without a trace of doubt the true line of the Loubet Award, and delivered the respective maps and reports. With regards to Article VII it provides for the immediate execution of the Award in case it was unreservedly accepted by both parts [*parties*]; but after seven years of constant protests and resistance on the part

¹³ *Foreign Relations*, 1914, p. 994.

of Panama, those dispositions cannot be invoked to enforce on Panama an award against which it has presented from the start legal objections of great weight which have not been as yet considered or resolved by due process of law.

In protesting, as I am now doing, on behalf of my Government, against the improper request which the Republic of Costa Rica has made Your Honor, allow me to bring before your attention with all the respect due Your Honor the fact that this note of protest, and the considerations stated therein, do not signify that Panama becomes a party to the litigation which Costa Rica seems to wish to lay before Your Honor; nor do they signify that Panama recognizes the jurisdiction of the Tribunal if any such had been constituted.

Please accept [etc.]

NARCISO GARAY

718.1915/548

*The Secretary of State to the Panaman Minister of Foreign Affairs
on Special Mission (Garay)*

WASHINGTON, August 13, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's notes of July 29, and July 30,¹⁴ referring to the boundary dispute between Panama and Costa Rica, in which you assert that since both Panama and Costa Rica are signatory members of the Treaty of Versailles, there exists between you, by virtue of provisions of Article 13 of that Treaty, a pact providing for obligatory arbitration of questions concerning the interpretation of treaties and matters of international law, which, you state, are precisely those involved in the present controversy between Panama and Costa Rica.

Although you did not specifically request the Department of State to communicate your notes above mentioned to the Government of Costa Rica, nevertheless, in view of the fact that the suggestion advanced by you, referred to above, had not, so far as I am aware, already been communicated to Costa Rica, I took pleasure in doing so.

The Government of Costa Rica, in advising this Government of its opinion regarding the suggestion of the Government of Panama, as thus communicated to it, states that it cannot consent to submit to the League of Nations questions to which Your Excellency refers for the reasons which it states are as follows:

a. Because at the present moment the matter is being handled under the friendly mediation of the United States of America requested by Panama and readily accepted by Costa Rica, which medi-

¹⁴ Notes not printed.

ation was also accepted and approved by the Council of the League of Nations as stated by the Secretary General to the Department of Foreign Relations of Costa Rica in a cablegram sent in March, last.

b. Because according to the stipulations of the Treaty of Versailles, the provisions relative to compulsory arbitration referred to a certain class of disputes that may arise among the signatories subsequently to the Treaty, but in no wise to any of the disputes that came up before the Treaty existed. Now the determination of the boundary line is of very old standing and it has been finally settled by the Loubet and White awards and by the Anderson-Porras Treaty, which all antedate the Treaty of Versailles.

c. Because as previously stated, every boundary dispute between the two countries was finally settled by the Awards and Treaty above mentioned. Costa Rica does not admit, and the Government of the United States so considered on various occasions in the course of this mediation, that there could be any doubt as to the validity of the White Award. At this present moment the Government of Costa Rica is not discussing that point of law, but the point that the only question now pending is the execution of those international engagements, namely, the physical marking of the boundary line and the surrender of jurisdiction in the part of the territory that is wrongfully held by the civilian authorities of Panama.

In concluding its communication to the Government of the United States, the Government of Costa Rica likewise makes the following statement:

“Señor Garay claims that under Article XIII of the Treaty of Versailles, Costa Rica and Panama are compelled to seek the compulsory arbitration therein provided; but Señor Garay forgets that that arbitration exists, that the boundary question has already been settled twice by that method and that, therefore, there is no occasion to admit of a never ending process of arbitration of the same matter, as, if it were so, international disputes would never come to an end. The Treaty of Versailles was signed for the purpose of strengthening the principles of international law and the good faith of the countries in their relations, and in no wise to afford pretexts for and means of evading assumed obligations.”

Accept [etc.]

CHARLES E. HUGHES

718.1915/549a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, August 18, 1921—5 p.m.

64. You are instructed to transmit the following note, copy of which is being transmitted to Mr. Garay, to the Government of Panama:

“The Government of the United States has received the note addressed by the Government of Panama on August 6, to the Ameri-

can Minister in Panama,¹⁶ replying to the communication handed by the Minister on August 2 to the Government of Panama by instruction of the Government of the United States,¹⁷ in which were transmitted two requests of the Government of Costa Rica relating to the boundary dispute between the Republics of Panama and Costa Rica.

"After the most careful consideration of the statements contained in the note of the Government of Panama above referred to, this Government has reached the conclusion that the arguments advanced in this communication have already been fully answered in previous notes addressed by the Government of the United States to the Government of Panama. It is greatly regretted that it has proved to be impossible for the Governments of Panama and Costa Rica to come to a direct agreement for the delimitation of that portion of the boundary between the two Republics laid down by the White Award. In view of the fact that the Government of Panama appears unwilling to carry out this delimitation in the manner provided in the Porras-Anderson Convention, and inasmuch as a reasonable time, mentioned in the note of this Government dated May 2, 1921,¹⁸ for the reaching of an agreement as to the manner of carrying out this delimitation, has already been afforded, there would seem to be no reason why the Government of the United States should, as the friendly mediator between the two Governments, or by virtue of its special relations to the Government of Panama, feel compelled to suggest to the Government of Costa Rica that it delay longer taking jurisdiction over the territory which is now occupied by Panama and which was adjudged to belong to Costa Rica by the terms of the Loubet Award.

"The Government of the United States is now advised by the Government of Costa Rica that since it considers that the Porras-Anderson Convention is in force, and since it believes that there is no valid reason for delaying its complete execution any longer, it is ready to assume immediately the jurisdiction over the territory above referred to."

HUGHES

718.1915/550 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, August 22, 1921—2 p.m.

65. Your 132, August 20, 10 p.m.¹⁹

In reply to memorandum you are instructed to hand the following memorandum to the Government of Panama.

"The Government of the United States has received the memorandum addressed by the Government of Panama on August 20, to

¹⁶ See telegram no. 130, Aug. 6, from the Minister in Panama, p. 219.

¹⁷ See telegram no. 61, Aug. 1, to the Minister in Panama, p. 218.

¹⁸ See telegram no. 38, Apr. 27, to the Minister in Panama, p. 207.

¹⁹ Not printed; it contained memorandum of Aug. 20 from the Panaman Minister of Foreign Affairs in reply to note of Aug. 19 transmitted in telegram no. 64, Aug. 18, to the Minister in Panama, *supra*.

the American Minister in Panama, making an inquiry with regard to the note transmitted by the American Government through the American Minister at Panama, dated the 19th instant. In the memorandum the Government of Panama states that it feels the Department's note can be construed as meaning that the United States has stepped aside in the Panama-Costa Rica conflict and will allow hostilities to be reopened and points out that the reopening of hostilities would be contrary to the notification made by the Department under date of its telegram of April 16, 1921.²¹

In answer, the Department wishes to point out that through the reference in its last note to the note of this Government of May 2, this Government meant to indicate that its present attitude towards Panama and Costa Rica is the same as that announced in the note of May 2, in which it was clearly stated that if, upon the expiration of a reasonable time the steps indicated in that note had not been taken 'the Government of the United States will find itself compelled to proceed in the manner which may be requisite in order that it may assure itself that the exercise of jurisdiction is appropriately transferred'.

In view of the fact that the United States as friendly mediator regards as just the claims of Costa Rica to the lawful possession of the territory on the Pacific awarded to her by President Loubet it cannot, because of its special treaty relations to Panama, permit a renewal of hostilities by Panama against Costa Rica by reason of Costa Rica's now taking peaceful possession of that territory."

HUGHES

718.1915/555 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, August 23, 1921—noon.

[Received 2:55 p.m.]

134. Department's instruction 65 received this morning. Memorandum delivered. Panaman Minister for Foreign Affairs stated that there will be no further resistance to Costa Rica's taking possession, and that their present intention is to recall at once Corregidor and policemen from Coto so there will be no occasion for friction when Costa Ricans arrive.

PRICE

718.1915/565a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, August 25, 1921—6 p.m.

66. Please notify Panaman Government that Costa Rican Legation here has been instructed to inform Department that Costa Rican Government intends assuming jurisdiction on September 5th, over

²¹ Not printed.

that portion of the territory in the region of the Pacific awarded to Costa Rica by the terms of the Loubet Award, which has hitherto been occupied by the Government of Panama.

HUGHES

718.1915/577 : Telegram

The Secretary of State to the Chargé in Costa Rica (Thurston)

WASHINGTON, *September 3, 1921—3 p.m.*

40. Your September 1, 10 a.m.²²

You may advise the Minister for Foreign Affairs that the Department has been informed by the American Minister in Panama that the authorities of Panama in the Coto area left that district with their insignia and archives several days ago, the Corregidor returning for the apparent purpose of removing his personal belongings. In view of these facts, and in view of the further fact that the Department is advised that the total number of inhabitants of Coto is less than 70, the Department believes it highly improbable that the Costa Rican forces sent to Coto will encounter opposition of any character. Orders have therefore been sent to the Commander of the war vessel which it was intended should proceed to some point on the Pacific Coast near Coto, to insure the orderly transfer of jurisdiction had there been any evidence of an intention on the part of Panama to resist, by forcible measures, such transfer, to remain at Balboa. The vessel will not proceed as originally planned unless the Costa Rican forces encounter resistance upon their arrival in Coto.

HUGHES

718.1915/588 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, *September 7, 1921—12 a.m.*

[Received September 8—10:10 a.m.]

125. Messenger has just arrived Punta Arenas announcing that Costa Rican forces took peaceable possession of Coto region late afternoon September 5th.

THURSTON

718.1915/622

*The Secretary of State to the Costa Rican Minister (Beeche)*²³

WASHINGTON, *November 18, 1921.*

MY DEAR MR. MINISTER: I desire to inform you that Professor O. M. Leland, Dean of the College of Engineering and Architecture of

²² Not printed.

²³ The same, *mutatis mutandis*, to the Panaman Chargé.

the University of Minnesota, and Professor John F. Hayford, Director of the College of Engineering of Northwestern University, have been appointed by the Chief Justice of the United States as Commissioners to delimit the boundary between Costa Rica and Panama, in accordance with Article 7 of the Porras-Anderson Treaty of 1910.

I am [etc.]

CHARLES E. HUGHES

The Dominican Republic and Haiti:²⁴ Amendments Proposed by Haiti in the Draft Protocol of Arbitration

738.3915/220

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

No. 394

WASHINGTON, *April 13, 1921.*

SIR: The Department is in receipt of a despatch dated March 31, 1921, from the American Minister at Santo Domingo,²⁵ relative to the Dominican-Haitian Boundary question, in which it is stated that for the past six months, each country has been protesting against encroachments by the other and violation of the *status quo*. He furthermore states that disagreeable developments may result unless something definite is concluded as to arbitration.

In view of the fact that the proposed settlement of this boundary question has been under consideration for some time by the two Governments involved, and that both Governments have agreed to submit their case to Papal arbitration, you are instructed to call the attention of the appropriate Government officials to the inconveniences and possible dangers resulting from delays which have occurred heretofore in the settlement of this boundary controversy. You may also convey expression of this Government's earnest desire in the interests of both the Haitian and the Dominican peoples, to learn that the boundary negotiations now carried on between the Haitian and Dominican Republics will lead to a speedy and final agreement regarding arbitration of the case.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

²⁴ Continued from *Foreign Relations, 1920*, vol. I, pp. 295-311.

²⁵ Not printed.

738.3915/224

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

No. 498

PORT AU PRINCE, *June 2, 1921.*

[Received June 27.]

SIR: Referring to the Department's No. 394, of April 13, 1921 (File No. L.A.738.3915/220) regarding the Dominican-Haitian Boundary question, I have the honor to report that I complied with the instructions therein contained by a note to the Foreign Office under date of May 19, 1921, copy of which is herewith enclosed,²⁶ and to which I received in reply from the Minister of Foreign Affairs a note dated May 24, 1921, copy and translation of which is also herewith enclosed.²⁶

As you will observe the Minister of Foreign Affairs states that the Haitian Minister at Santo Domingo had been authorized to sign the protocol agreed upon with the Dominican Government²⁷ with the addition of the two following Articles which figured in the Treaties of 1895 under the numbers 8 and 9:

Translation

ART. 8. "If the point is resolved in favor of the Haitian Nation, the Dominican Government pledges itself to trace the definite frontier line so that all the possessions occupied by Haiti in the year 1874 remain in her favor.

ART. 9. "If the arbitrator decides the question according to the interpretation sustained by the Dominican Government, then the latter, considering that Haiti has always occupied and peopled the territory in litigation since a lapse of time and considering that today it would be impossible for the Dominican Government to indemnify the Haitian proprietors of the property situated and established in the said territory, as likewise it would be impossible for it to occupy and people it with Dominican families, pledges itself to agree with the Haitian Government, availing for this purpose of the express authorization which the sovereign people have conferred upon it, to leave Haiti in possession, with perfect right, of the territory which it occupied in 1874, in consideration of a just pecuniary compensation."

The Minister of Foreign Affairs adds that it seemed to the Haitian Government that there could be no difficulty as to this addition and that Admiral Snowden²⁸ with whom the matter had been discussed saw no objection to it.

²⁶ Not printed.

²⁷ *Foreign Relations*, 1920, vol. I, p. 308.

²⁸ Thomas Snowden, rear admiral, U. S. N.; Military Governor of Santo Domingo.

Mr. Barau further states that from the foregoing the Department will observe that the Haitian Government has always been desirous that a definite settlement of this frontier question be reached and that its opinion has not changed.

The Minister of Foreign Affairs finally requests me in informing my Government of the above, to advise it that the Haitian Government is ready to send to its Representative at Santo Domingo the necessary full powers to sign the arbitral protocol with the additions above indicated.

I have [etc.]

A. BAILLY-BLANCHARD

738.3915/225

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 706

SANTO DOMINGO, *August 2, 1921.*

[Received August 17.]

SIR: I have the honor to acknowledge receipt of your No. 413 of July 7 (File No. 738.3915/224),²⁹ quoting pertinent portions of a despatch dated June 2 from the American Legation at Port-au-Prince in regard to the Dominican-Haitian boundary question.

The Foreign Ministry states that nothing has been done in the matter of the boundary dispute since I forwarded my No. 654 of January 19, 1921,²⁹ containing a copy of the note from the Haitian Minister in which the Haitian Government insists on the insertion in the protocol of arbitration of the two clauses contained in a memorandum from the Haitian Minister of August 2, 1920, and forwarded in my No. 635 of November 3, 1920.²⁹ These two clauses are the same as those mentioned as Arts. 8 and 9 in your instruction No. 413 of July 7.

The Foreign Office would like to know if the State Department agrees to the final proposed protocol from the Dominican Government, copy of which was sent you in my No. 641 of December 3, 1920,³⁰ and which was not accepted by Haiti.

I have [etc.]

WILLIAM W. RUSSELL

738.3915/225

The Secretary of State to the Chargé in the Dominican Republic (Herod)

No. 430

WASHINGTON, *December 28, 1921.*

SIR: The receipt is acknowledged of your despatch No. 706, of August 2, 1921, stating that the Dominican Foreign Office would

²⁹ Not printed.

³⁰ *Foreign Relations*, 1920, vol. I, p. 308.

like to know if the Department agrees to the final form of protocol proposed by the Dominican Government covering the submission to arbitration of the boundary controversy with Haiti, a copy of which protocol was sent by you to the Department in your No. 641, of December 3, 1920.

In reply you are informed that the Department does not consider that the present is an opportune time to endeavor to form an opinion upon the relative merits of the protocol of arbitration proposed by the Dominican Government and the amendments thereto proposed by the Haitian Government.

I am [etc.]

CHARLES E. HUGHES

Guatemala and Honduras:³¹ Withdrawal from Washington of the Guatemalan and Honduran Special Missions

714.1515/353

The Chief of the Guatemalan Special Mission (Toledo Herrarte) to the Acting Secretary of State

[Translation]

WASHINGTON, *January 3, 1921.*

MR. SECRETARY: I have the honor to inform your Excellency that the Government of Guatemala has been pleased to bring to an end the Special Mission with which I have been entrusted, for a settlement of the boundary dispute with the Republic of Honduras.

In expressing to your Excellency my profound gratitude for the kind and untiring attentions that your Honorable Government has deigned to extend to me during my Mission, I take [etc.]

LUIS TOLEDO HERRARTE

701.1511/126

The Chief of the Honduran Special Mission (Bonilla) to the Secretary of State

[Translation]

WASHINGTON, *March 24, 1921.*

MOST EXCELLENT SIR: I have the honor to inform Your Excellency that the resignation of the office of Envoy Extraordinary and Minister Plenipotentiary of Honduras on Special Mission at Washington, which I tendered, has been accepted by my Government, and in compliance with its instructions I lay before the Department of State the notice that my retirement does not mean that my Government considers at an end the mediation in the boundary dispute of

³¹ Continued from *Foreign Relations*, 1920, vol. I, pp. 311-318.

Honduras with Guatemala and Nicaragua,³² as the Mission which I have filled is left in charge of the permanent Legation at this capital which will, when the time comes, receive notice of the solution that the mediator may see fit to propose in the Nicaragua case.

In retiring from the diplomatic service of my country, it affords me pleasure to express my thanks to the officers of the Department of State for the attentions and courtesies which they have shown me.

Assuring [etc.]

P. BONILLA

714.1515/356

The Guatemalan Minister (Bianchi) to the Secretary of State

[Translation **]

No. 11

WASHINGTON, *March 30, 1921.*

MOST EXCELLENT SIR: Under instructions received from my Government, I have the honor to send to Your Excellency this note bearing on the boundary dispute between Guatemala and Honduras.

The Government of the United States tendered its friendly mediation to the two countries to the end that they might adjust their differences under its auspices and in the house of a common friend. This timely proposition having been accepted by the parties in interest, they both appointed their representatives, who met in the city of Washington in May 1918.

After two years of strenuous labor and when both parties had presented their pleas, in so far as the defense of their interests demanded, the advice of the mediator alone was awaited. The mediator, represented by the then [Acting] Secretary of State, Mr. Frank L. Polk, notified the chiefs of the Honduran and Guatemalan delegations on the 1st of March, 1920, that on account of their failure to reach a direct settlement, he thought that the time had come to declare the mediation at an end unless the Governments of the two nations should ask the Government of the United States to fix a boundary line which they should previously agree to accept as final, and added that the Department of State had already, through its Legations, communicated with the Governments of Honduras and Guatemala in the same sense.

The Government of Honduras gave notice of its unrestricted acceptance of the American proposal on the 26th of March of that year, while that of Guatemala, engrossed by the momentous political events which were taking place in the country, was unable to return

³² For papers relating to the boundary dispute between Honduras and Nicaragua, see pp. 234 ff.

³³ File translation revised.

an answer until this date, when it replies by stating in a clear and precise manner the following points:

1. The Government of Guatemala declares to the Government of the United States that it is deeply grateful for its disinterested efforts in the cause of the maintenance of peace and harmony between Guatemala and Honduras, and that it was unable to answer the proposal duly made for the settlement of the boundary question on account of its being, as stated above, engrossed in the solution of the many important domestic problems that sprang up as a natural consequence of the political changes that had just taken place in the country.

2. Upon a thorough and calm examination of the proposal formulated by the Acting Secretary of State, Mr. Frank L. Polk, in March 1920, the Government of Guatemala finds that the mediation of a friendly Government, looking to the settlement of the boundary question with Honduras, has become strictly necessary, because in spite of the reiterated efforts of the parties concerned, and of Guatemala in particular, no direct agreement on the subject could be arrived at, and that therefore the continuance of disagreement evidenced in the conferences at Washington, instead of suggesting a termination of the negotiations which were opened under such favorable auspices upon the invitation of the American Government, has made them even more urgent and indispensable.

3. The previous engagement on the part of the litigants to accept as final and conclusive the advice of the mediator, would turn that advice into a genuine award and the mediation into an arbitration in disregard of the fundamental differences existing between the two [methods of settlement] and acknowledged by all publicists. Indeed, the mediator, with a view to a decision in the case, may and should take into consideration elements of all kinds, and on that account enjoys discretionary powers which are solely conferred upon him because his decision only bears the character of simple advice, compliance with which is not binding upon those who sought it. On the other hand, an arbitrator is a judge of law who may not take cognizance of anything beyond the question or questions referred to his decision and is held in rendering his award to consider the merits of the evidence as it is presented to him, but whose award is without appeal and final. It results therefrom that mediation and arbitration are acts of an essentially different character, and therefore the proceedings to be observed and the formalities with which they are to be surrounded so as to guarantee the rights of the parties concerned are likewise very distinct.

4. On these grounds the Government of Guatemala would feel satisfaction and pleasure in having the Department of State, whose

impartiality and fairness are unchanging, take into account the sacrifices already imposed on the litigants by the negotiations carried out on its initiative, and reconsider the proposal made by [Acting] Secretary Polk, and agree to have the negotiations carried on on the basis of mediation pure and simple, which negotiations only require, for arriving at a successful issue, oral conferences between the delegates of the respective parties and the offer of advice by the friendly mediator; and

5. If, however, the Government of the United States for any cause should not find it expedient to accede to that request, the Government of Guatemala declares that it is willing to resort to arbitration, provided the requirements set forth in the boundary treaty of August 1, 1914, in force for this case, shall be observed, and that the parties shall first come to an agreement as to the concrete question to be arbitrated.

I assure [etc.]

J. BIANCHI

714.1515/357: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, May 30, 1921—11 a.m.

[Received May 31—8:45 a.m.]

28. The Minister for Foreign Affairs requests me to inform my Government that Guatemala has appointed a commission to immediately consider jointly with a similar commission from Honduras their boundary dispute. If an agreement is reached they will report results to Washington for entry as final settlement as heretofore contemplated.

McMILLIN

Honduras and Nicaragua:^a Proposal by the United States to Submit the Dispute to the Chief Justice of the United States Supreme Court for Decision

715.1715/255

Memorandum by the Chief of the Division of Latin American Affairs, Department of State (Welles)

[WASHINGTON,] September 29, 1921.

The dispute in regard to the boundary between Honduras and Nicaragua was submitted to the arbitration of the King of Spain, who rendered an award in 1906. This award was accepted by Honduras but rejected by Nicaragua. The latter government asserted that the

^a For previous correspondence, see *Foreign Relations*, 1920, vol. I, pp. 318 ff.

award had not been rendered within the time limit prescribed by the treaty under which the arbitration was held and that the arbitrator had exceeded his power. The matter remained open until 1918 when the threat of hostilities led the State Department to offer the good offices of this Government as mediator. Since 1918 several conferences have been held at which an effort was made to bring about an agreement between the two governments without placing the Department in the position of recommending a specific line or passing an opinion upon the validity of the award of the King of Spain. It has not so far been possible to reach such an agreement.

This afternoon the ministers of Honduras and Nicaragua and also the Minister of Foreign Affairs of Nicaragua, met in the offices of the Latin-American Division and reached an agreement to submit the following proposed solution of the controversy to the approval of their governments.

- (1) To submit to the decision of the Chief Justice of the United States Supreme Court the question of the validity of the award rendered by the King of Spain.
- (2) To leave to the decision of the same arbiter the laying down of the boundary line if the former award is held invalid.

It was agreed by the representatives of both countries that it would be preferable, if possible, to fix upon a line by direct agreement, which would be accepted if the arbiter held the King of Spain's award to be invalid. It was understood, therefore, that the solution above outlined would not preclude direct negotiations for this purpose.

WELLES

715.1715/226

*The Secretary of State to the Honduran Minister (López Gutiérrez)*³⁵

WASHINGTON, October 27, 1921.

SIR: Since the Department of State offered its good offices as friendly mediator in the boundary dispute between Honduras and Nicaragua, more than three years ago, a large number of conferences have been held at this Department, with a view to ascertaining whether an agreement acceptable to both parties could be reached. These discussions have not, so far, achieved any definite result. The Department of State has, as you know, declined to express any opinion upon the validity of the award of the King of Spain defining the boundary between the two Republics, but has sought to find a solution of the controversy which would be agreeable to both parties. In September of last year a possible solution of this boundary ques-

³⁵ The same, *mutatis mutandis*, to the Nicaraguan Minister.

tion was suggested to the two parties by the Secretary of State, but neither felt able to agree to the proposals made. Thereafter the conferences were temporarily discontinued and were only recently resumed.

As a consequence of the recent conferences held with yourself and with the representative of the Government of Nicaragua, the Department of State, as mediator, now desires to suggest the following procedure as a means of reaching a permanent settlement of the boundary dispute between the Republics of Honduras and Nicaragua, namely,—(1) that the following question, “Is the award defining the boundary rendered by the King of Spain in 1906 valid?”, be submitted for determination to the Chief Justice of the United States, and that (2) in the event that the arbitrator should hold the award of the King of Spain to be invalid, and the boundary line fixed by that award consequently inapplicable, the Chief Justice of the United States be entrusted with the duty of determining the boundary which shall be established between the two Republics, taking into consideration all facts, circumstances and antecedents relating thereto, with the prior understanding that both the Government of Honduras and the Government of Nicaragua shall accept the decision so rendered as final and conclusive.

Accept [etc.]

CHARLES E. HUGHES

715.1715/228

The Nicaraguan Minister (Chamorro) to the Secretary of State

[Translation ³⁶]

C-32

WASHINGTON, *October 29, 1921.*

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's kind communication, dated the 27th of the month, relative to the suggestion made by Your Excellency as mediator in the boundary dispute between the Republics of Nicaragua and Honduras looking to a final solution of the case.

I am very glad to say to Your Excellency that I am instructed by my Government to accept *in toto* the bases proposed by the Department of State in the aforesaid note, namely:

(1) That the following question, “Is the award defining the boundary rendered by the King of Spain in 1906 valid?”, be submitted for determination to the Chief Justice of the United States, and that

(2) In the event that the arbitrator should hold the award of the King of Spain to be invalid, and the boundary line fixed by that award consequently inapplicable, the Chief Justice of the

³⁶ File translation revised.

United States be entrusted with the duty of determining the boundary which shall be established between the two Republics, taking into consideration all facts, circumstances and antecedents relating thereto, with the prior understanding that both the Government of Honduras and the Government of Nicaragua shall accept the decision so rendered as final and conclusive.

I avail myself [etc.]

EMILIANO CHAMORRO

THE TACNA-ARICA QUESTION ³⁷

Declaration by the United States of its Impartial Attitude—Chilean Proposal to Peru to Hold a Plebiscite in the Disputed Territories; Peruvian Counter-Proposal to Arbitrate the Dispute

723.2515/708a : Telegram

*The Acting Secretary of State to the Ambassador in Peru
(Gonzales)*

WASHINGTON, January 18, 1921—6 p.m.

6. Peruvian Ambassador informs me that press despatches emanating from Chile assert that Secretary Colby stated while in Argentina ³⁸ that the United States will maintain an absolute hands-off policy in the controversy between Chile and Peru, and would not offer its good offices towards a settlement of the controversy unless invited by the two governments. Pezet also says Chile hails this declaration of policy as an acceptance of the Chilean contention that the United States should not interfere in the affairs of South America.

I am confident that Secretary Colby has not said anything more than I have stated to the Peruvian and Chilean Ambassadors here. To the former I have stated that while our relations to Peru are unusually close, this Government must be impartial in all controversies in South America, and that while we are most desirous of being of any assistance to Peru we can only support Peru's contentions to the extent that they may, in our judgment, be justifiable. I have also stated to him that it does not increase our ability to assist in the controversy between the two countries by creating the impression that our friendship towards Peru would cause us to support any unjust Peruvian claims, which creates the wrong impression in Chile and a fear to accept any plan of arbitration we might propose.

To the Chilean Ambassador I have stated that while this Government is most desirous of a settlement of this long-standing contro-

³⁷ Continued from *Foreign Relations*, 1920, vol. I, pp. 324-350.

³⁸ For papers relating to the visit of the Secretary of State to Brazil, Uruguay, and Argentina, see *ibid.*, pp. 228 ff.

very and of rendering any service to that end, we are impartial and have not formulated any definite views as to any actual terms of settlement; also that we would not impose our good offices into [*sic*] the controversy, at least unless situation should become acute. The Chilean Ambassador told me that he was hopeful that his country would realize the impartial position of this Government and that the situation may then develop whereby his Government could accept mediation, or a mission may be provided in this hemisphere for the arbitration of this question without calling upon Europe or any other powers outside of this hemisphere. I suggest that you call on the President of Peru and repeat our position, and tell him not to be disturbed by any unfounded press report.

DAVIS

723.2515/710: Telegram

The Ambassador in Chile (Shea) to the Acting Secretary of State

[Paraphrase]

SANTIAGO, *January 26, 1921—2 p.m.*

[Received January 27—12:25 a.m.]

16. According to a confidential telegram from Mathieu³⁹ which the Minister of Foreign Affairs showed me Tuesday, the Ambassador had just conferred with the Department, and had been given substantially the following information:

The persistent statements coming from Peru that the United States intended to espouse Peru's cause against Chile were somewhat annoying to the Department; the Department had advised Ambassador Pezet that this was not the intention of the United States and that the Peruvian people should not be encouraged in this belief; unless invited by both parties, the United States would not interfere in the matter.

The press a few days later published a statement as made by Secretary Colby on the east coast of South America, expressing the friendly attitude of the United States toward the Republics of South America, and the policy of the former not to interfere unless invited to do so. The Minister of Foreign Affairs and I talked over the whole situation, and I decided, in view of the approaching naval visit,⁴⁰ to issue the following statement:

The declaration that the press attributes to the Secretary of State to the effect that, unless requested, the United States will not attempt to intervene in the Tacna-Arica question, tendering its good

³⁹ Beltran Mathieu, Chilean Ambassador at Washington.

⁴⁰ Visit of the United States Pacific Fleet to Valparaiso.

offices to both interested Governments, is wholly in accord with the traditional policy of the United States. This policy, which has been frequently affirmed by the Government of the United States, is one of absolute impartiality, and was recently stated in the exchange of notes between the Embassy of the United States and the Government of Chile.⁴¹

SHEA

723.2515/710 : Telegram

The Secretary of State to the Ambassador in Chile (Shea)

[Paraphrase]

WASHINGTON, *February 2, 1921—6 p.m.*

13. Your January 26, 2 p.m. No such statement in regard to the policy of the United States relative to the Tacna-Arica problem as attributed by the press to the Secretary of State was issued by him. Furthermore, the report that Mathieu sent to his Government in regard to his conferences with the Department of State, to which you allude, appears to have been somewhat exaggerated. The Department informed the Ambassador that while this Government desired above all to have this long-standing controversy settled and to render any service to that end, it had not formulated any definite views as to the actual terms of the settlement, and remained completely impartial; also that unless the situation became acute, it would not impose its good offices in the controversy. It was further indicated to the Ambassador that this Government considered it highly desirable that if the situation so developed that the parties to the controversy would accept an arbitration of the dispute, the arbitration be submitted to American powers and not to governments outside this hemisphere.

Hereafter, you will please communicate to the Department for its approval any statements you may desire to issue to the press.

COLBY

723.2515/751

The Peruvian Ambassador (Pezet) to the Secretary of State

[WASHINGTON,] *August 26, 1921.*

MY DEAR MR. SECRETARY: Some time since, I read to you, and left with you, a Memorandum⁴² in connection with the Question of the Pacific, in which, among other things, I said:—"If, however, the

⁴¹ Apparently refers to the notes of Mar. 30 and 31, 1920, quoted in the Ambassador's telegram of Mar. 31, *Foreign Relations, 1920*, vol. I, p. 338.

⁴² Not printed; excerpts from the memorandum are quoted in the note of Sept. 17 to the Peruvian Ambassador, p. 241.

position taken by Secretary Blaine⁴⁴ with respect to European Powers, either singly or in group, participating in the settlement of an American affair of this kind has been changed, may we not be advised thereof? ”

When I had the honour of presenting this Memorandum to you, as I recall, you verbally and informally advised that the position taken by Secretary Blaine had not been changed, and that the doctrine announced by Secretary of State Blaine is the present policy of the Department. This is understood to mean that the United States would not look with favour upon Peru submitting this American question to European Powers, either singly or in group, and that the determination of this American question by the League of Nations would not be in accordance with the doctrine set down by Secretary Blaine, to which the Department still adheres.

The League of Nations Council will meet very soon, and as Peru desires to act in entire harmony with the views of the Department of State, may I not respectfully ask a formal answer to the question as to the attitude of the Department respecting the doctrine of Secretary Blaine, which, as mentioned, we have been verbally informed is adhered to by the Department.

Accept [etc.]

F. A. PEZET

723.2515/752

The Peruvian Ambassador (Pezet) to the Secretary of State

[WASHINGTON,] *September 15, 1921.*

SIR: About six weeks ago, I read to and left with Your Excellency a Memorandum on the subject of the Peruvian-Chilean controversy. Not having received a reply to this Memorandum, on the 26th. of August I wrote to Your Excellency in relation thereto.

I regret to say that until this writing no answer to these communications has been received.

This matter is of extreme importance to my Government, especially in view of the fact that Doctor Cornejo, the Peruvian Minister to France, has very earnestly urged that the United States be requested to join with France and Brazil in securing a mandate from the League of Nations to hear and determine this controversy. To this we answered that in our opinion the Department of State of the United States could not, consistently with its policies, ask the League of Nations for a mandate to determine an American

⁴⁴ See the instruction of Sept. 5, 1881, to the Minister in France, *Foreign Relations*, 1881, p. 426.

question, nor could it accept a mandate jointly with France or any other European Power to determine a question so essentially American.

Now, in view of the attitude of Bolivia and Chile before the present Assembly at Geneva, it has become imperative that Peru should know the attitude of the State Department, for as Your Excellency is aware, Peru has not been represented at the Assembly this year because of its declared policy not to present any demand before any Assembly wherein the United States has no voice and vote.

May I not, therefore, express the hope that I may receive an early reply in this connection?

Accept [etc.]

F. A. PEZET

723.2515/751

The Secretary of State to the Peruvian Ambassador (Pezet)

WASHINGTON, *September 17, 1921.*

EXCELLENCY: I have received your letter of August 26, referring to a previous conversation, and to a Memorandum left with me^{44a} relating to a matter in question between Peru and Chile, which you describe as the "Question of the Pacific", and stating the desire of your Government as to proceedings looking toward the settlement of that question. You call my attention to the inquiry presented in the concluding portion of your Memorandum:

"It is hoped, therefore, in the interest of an American settlement of this American question that some formal steps may be taken soon looking to the formation of an American impartial tribunal where this case may be tried. If, however, the position taken by Secretary Blaine with respect to European powers, singly or in group, participating in the settlement of an American affair of this kind has been changed, may we not be advised thereof?"

With respect to the position of Secretary Blaine, you say in the Memorandum:

"The policy of the Department apparently was defined by Secretary Blaine in August, 1881. Mr. Morton, United States Minister to Paris, wrote to Secretary Blaine regarding the offer of France to take part in the arbitration of this controversy. Mr. Blaine stated, in effect, that by reason of the peculiar relationship of the United States to the Republics of South America, the United States could not look with favor upon European powers taking part with the United States in the settlement of a question so essentially American."

^{44a} Memorandum not printed.

In your letter, referring to the Memorandum, you ask whether, as you understood me to say verbally and informally, "the doctrine of Secretary Blaine" is the present policy of the Department.

In reply, permit me to say that while there is not the slightest desire to say anything in derogation of Secretary Blaine's position, I am unable to perceive the appositeness of your inquiry which seems to reveal a misapprehension of the matter with which Secretary Blaine was dealing.

In Secretary Blaine's instructions to Mr. Morton, at the time to which you evidently refer, he was dealing with a suggested joint intervention of European Powers with the United States in the affairs of Chile and Peru. It would also seem to be clear, from Mr. Morton's despatch, that France had particularly in mind an intervention for the purpose of protecting French material interests and desired to effect a joint intervention to which the United States should be a party in order to assure the success of the intervention. After referring to the frequency of interventions in European diplomatic history, Secretary Blaine said that he was "constrained to gravely doubt the expediency of uniting with European Powers to intervene, either by material pressure or by moral or political influence, in the affairs of American states". He instructed Mr. Morton to inform the French Government that "the United States declines to enter into negotiations with European Powers for a joint intervention in the affairs of Chile and Peru." The Department finds no occasion to qualify or dissent from Secretary Blaine's statement. (*Foreign Relations of the United States*, 1881, pp. 421, 427.) This, you will observe, had no reference to voluntary submission of controversies to arbitration.

With respect to the desire of your Government, as expressed in the abovementioned Memorandum, that the United States should "request Brazil and Argentina to join with the United States in representations both to Peru and Chile", and the suggestion, according to your recent statement, of the Peruvian Minister to France, "that the United States be requested to join with France and Brazil in securing a mandate from the League of Nations to hear and determine this controversy", this Government finds itself unable to approve these proposals.

It should, however, be added that this Government, animated by warm and impartial friendship for the Governments of Peru and Chile, would view with deep gratification a permanent settlement of the longstanding question between the two Governments which would be satisfactory to both.

Accept [etc.]

CHARLES E. HUGHES

723.2515/1328

Memorandum by the Under Secretary of State (Fletcher)[WASHINGTON,] *September 21, 1921.*

The Chilean Ambassador called by appointment today, and gave me to read, in confidence, a personal letter to him from the President of Chile, as well as the original instruction from his Government on the subject of the steps Chile is now ready to take for the solution of the Tacna-Arica question. The instruction, after referring to what was said by the President of Chile in his annual message to Congress on the subject of the solution of this long-standing question, informed the Ambassador that the Chilean Government intended to invite the Peruvian Government to proceed to carry out the Treaty of Ancon by the holding of a plebiscite on the bases provided for in the Huneeus-Valera Protocol⁴⁵ (copy attached), without prejudicing the consideration of such other bases as Peru may suggest, provided that such bases should contemplate the definitive settlement of the sovereignty by means of the plebiscite as has been done by the various plebiscites celebrated under the Treaty of Versailles. The instruction stated further that in view of the possibility that Peru would refuse to accept the bases above mentioned, the Ambassador should inform this Government unofficially of the intention of the Chilean Government as above set forth, and suggest also, unofficially, that in such case this Government should spontaneously suggest to Peru and Chile the bases on which the plebiscite should be held, which would be agreed upon before-hand between the Governments of Chile and the United States.

After congratulating the Ambassador upon the decision of his Government to initiate negotiations for the settlement of this long-standing controversy, I asked him how his Government proposed to approach the Peruvian Government, whether directly or through another Government. He informed me that Mr. Carlos Castro Ruiz (who was Under Secretary of Foreign Affairs during my term of service in Chile, and later Consul General in New York) had been appointed Counsellor of Embassy, and had brought with him this instruction, as well as other verbal instructions of his Government. He said that Mr. Castro had informed him that the Chilean Government would probably extend its invitation to the Peruvian Government through the President of Uruguay. I asked him whether he believed that his Government would be prepared to modify the bases of the Huneeus-Valera Protocol, and I referred

⁴⁵ For negotiations relating to this protocol, see *Foreign Relations*, 1913, pp. 1222 ff.

especially to the stipulation that the plebiscite Commission should be presided over by the Chief Justice of the Supreme Court of Chile. The Ambassador replied that he felt confident that his Government would not insist on this feature, and, in his opinion, would be willing to accept the Chief Justice of Uruguay, or some other impartial country, if Peru should propose that as an alternative. The Ambassador gave me the impression that his Government really desired to come to terms with Peru on the plebiscite, and dispose of this question.

I told the Ambassador that if he would give me a confidential memorandum of the pertinent portions of the instruction which I had read, I would be very glad to lay it before the Secretary of State, and to let him know the result as soon as possible. The Ambassador promised to send me this memorandum at once, and requested that the matter be held in the strictest confidence.

[No signature indicated]

[Enclosure]

Bases of Plebiscite as per Huneeus-Valera Protocol

First. It was agreed to postpone the plebiscite until 1933.

Second. The plebiscite was to be taken under the jurisdiction of a mixed commission composed of two Peruvian delegates and two Chilean delegates and presided over by the President of the Supreme Court of Chile.

Third. Natives of Tacna and Arica and the Chileans and Peruvians who were not born there but who had resided three years in the territory were to be entitled to vote.

Fourth. Diplomatic relations were to be re-established by the appointment of Ministers in both countries.

Fifth. The Government of Chile was to pay to the Government of Peru five hundred thousand pounds for the occupation of the disputed territory, extending over twenty-one years.

723.2515/1329

Memorandum by the Under Secretary of State (Fletcher)

[WASHINGTON,] *September 28, 1921.*

The Chilean Ambassador, accompanied by Mr. Carlos Castro Ruiz, Special Counselor of the Chilean Embassy, called upon me today to follow up our conversation of a few days since with regard to a settlement of the Tacna-Arica question. The Chilean Government desires, in effect, our mediation with Peru in this matter, and would be very glad if the Department could see its way clear to find out from

the Peruvian Government whether it is disposed to settle this question on the bases of the Treaty of Ancon by proceeding to hold a plebiscite. If it is found that Peru is disposed to proceed with the plebiscite Chile will agree to almost any terms which seem fair to the Government of the United States, provided the question of sovereignty of these two provinces is definitively settled. The Ambassador promised to send me, informally and unofficially, the bases upon which the Chilean Government thinks the plebiscite should be held, and requests that the Department, on its own initiative, endeavor to discover from Peru how far these bases would be satisfactory to that Government, and what other suggestions Peru might have to make with regard to them. The Chilean Government hopes that in the event of a disagreement between the two governments on the question of the bases of the plebiscite it will be possible for us to use our good offices with both governments, in order that an agreement may be reached.

I was careful to point out to the Ambassador and Mr. Castro that our policy had been to take no action in this matter at the instance of one of the governments concerned which might be disagreeable to the other, but that I would lay the matter before the Secretary, and felt sure that they could rely upon the Department's good-will and desire to assist in bringing about a settlement of this long standing dispute.

The interview lasted an hour and the question was discussed from many angles.

The Ambassador handed me a clipping (hereto attached),⁴⁸ from which it appears that there is some doubt as to whether Peru would entertain the suggestion of a plebiscite, and he said that he feared that if Peru took that stand a settlement of the question would be impossible, as Chile could not consent to depart from the Treaty of Ancon.

[No signature indicated]

723.2515/761

*The Chilean Ambassador (Mathieu) to the Secretary of State*⁴⁹

[Translation⁵⁰]

1. The Government of Chile proposes to extend to that of Peru an invitation to carry out the plebiscite covenanted by the Treaty of Ancón on bases that were already considered as acceptable by both Governments at the last direct negotiation in 1912. Peru, however, may suggest such modifications as it may deem suitable within the

⁴⁸ Not printed.

⁴⁹ Handed to the Secretary of State by the Chilean Ambassador, Oct. 12, 1921.

⁵⁰ File translation revised.

principles and precedents established for such proceedings in the Treaty of Versailles.

2. If no agreement shall be reached, the Government of Chile would agree to leave it with the United States (alone or together with other American governments) to determine the bases it deems equitable.

3. The Government of the United States would give us, confidentially, previous indication of what, in its judgment, may be the equitable bases applicable to these proceedings.

4. The Government of Chile will not admit that the question pending with Peru may be put on any other ground than that of the execution of the Treaty of Ancón which, in its article 3, provides for the plebiscite. It could not, therefore, lend itself to any discussion other than that concerning the manner of the plebiscite, the only question pending between the two countries.

5. Refusal on the part of Peru would place upon that country the responsibility for the infringement of the treaty, and would be taken by Chile as Peru's relinquishment of any expectation as to the final sovereignty of those provinces held out to both countries by the Treaty of Ancón. Perpetuation of the conditions at present existing would be contrary to the interests of peace, to the progress of these territories, and to the prosperity of their inhabitants.

723.2515/761

The Secretary of State to the Chilean Ambassador (Mathieu)

AIDE-MÉMOIRE

The Secretary of State has noted the memorandum left with him on the twelfth instant by the Ambassador of Chile.

Referring to the possible recourse to the good offices of the United States mentioned therein, the Secretary of State is glad to state, as he informed the Chilean Ambassador yesterday, that the Government of the United States is willing to do all that it properly can to facilitate an adjustment of this long standing controversy, and believing it very desirable that a definite solution thereof should be found, will be pleased, in accordance with its well defined policy, to lend its aid toward such a settlement in any manner acceptable to both Governments concerned.

The Secretary of State understands that it is not desired that any negotiations should be had with the Peruvian Government in connection with this matter until the Department has been advised with respect to the result of the steps which the Chilean Government now has in contemplation.

WASHINGTON, *October 13, 1921.*

723.2515/778

The Chilean Ambassador (Mathieu) to the Secretary of State[Translation ⁵¹]

No. 920

WASHINGTON, *December 13, 1921.*

EXCELLENCY: I have the honor to make known to Your Excellency the following cablegram I have received from my Government:

"You are informed that by resolution of the Government, adopted by all of the Ministers and by all of the leaders of the political parties in conference with His Excellency the President of the Republic, a communication has been this day ⁵² addressed, by cable, to the Peruvian Government, inviting that Government to join in holding the plebiscite provided for in paragraph 3 of the Treaty of Ancón, for the purpose of determining definitively the nationality of the territories of Tacna and Arica. The invitation was formulated on the basis of the plebiscite proposal that was made by the Government of Peru in the year 1912 and that was the basis of the negotiations carried on by the Minister of Foreign Affairs of Chile, Don Antonio Huneeus, with the Minister of Foreign Affairs of Peru, Don Wenceslao Valera.⁵³ The Government has preferred this form of invitation to hold a plebiscite because, being of Peruvian origin, it should be more feasible; and as a demonstration of the lofty spirit in which we are seeking the solution of the Tacna-Arica problem, the invitation contains the express declaration that the Chilean Government, in its desire to find an amicable means of settling this ancient controversy, will gladly welcome any suggestion which the Peruvian Government may wish to make for the purpose of assuring the honesty, freedom, and genuine expression of the vote of the inhabitants of Tacna and Arica. Even though the bases proposed by Peru in the year 1912 advocated the holding of a plebiscite in 1933, thus conferring upon our country, which exercises its sovereignty in Tacna and Arica, a valuable prospect for the increase of Chile's preponderance there, the invitation made this date establishes the fact that Chile is ready to agree to an earlier date for the holding of the plebiscite, as a contribution to the lofty spirit of continental cordiality that prompts this step on the part of the Chilean Government."

The Minister of Foreign Affairs directs me to say to Your Excellency that the attitude of our Government reflects the sentiment of international harmony and a sincere desire to eliminate the causes that disturb the cordiality which Chile desires to mark her relations with all the American nations.

I avail myself [etc.]

B. MATHIEU

⁵¹ File translation revised.

⁵² December 12.

⁵³ See *Foreign Relations*, 1913, pp. 1222 ff.

723.2515/774: Telegram

The Chargé in Peru (Sterling) to the Secretary of State

LIMA, December 13, 1921—11 p.m.

[Received December 14—10:21 a.m.]

82. I was today called to the Ministry and shown a telegram just received signed by the Chilean Minister for Foreign Affairs inviting the Peruvian Government to open negotiations with regard to Tacna Arica on the basis of the Billinghamurst⁵⁴ agreement of 1912. Salomón asked me to ascertain from the Embassy Santiago whether telegram was authentic. If it was *bona fide* he stated only one reply could be made, namely, that Peru would consent to a settlement of this question by arbitration only. It was idle to talk of negotiations based on the Billinghamurst agreement as this had been utterly repudiated in Peru after it became public, the persecutions and deportations of Peruvians in the two provinces precluded a fair plebiscite and it was now a question of the revision of the whole Treaty of Ancon. Peru would welcome arbitration under the auspices of the United States and accept any decision handed down.

. . . The Minister is sending copy of the telegram to Pezet. I have wired Santiago to confirm authenticity of message without revealing source of the inquiry.

STERLING

723.2515/776: Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, December 14, 1921—5 p.m.

[Received December 15—1 a. m.]

86. I called upon the Minister of Foreign Affairs today at his request, to have him explain the purpose and motive of the Chilean message to Peru. The President of the Republic had desired him to make this explanation. The Chilean note, said the Minister, was sent with friendly feeling and good intent; Chile was prepared to negotiate with Peru and to consider any reasonable modifications in the arrangement proposed for conducting the plebiscite. Chile intended no bellicose action. In view of the fact that diplomatic relations between Peru and Chile are suspended, Chile would be pleased if the United States would convey this information to Peru. The Minister, answering my specific questions, said that I could give you the assurance that there would be no mobilization of Chilean forces

⁵⁴ Guillermo E. Billinghamurst, President of Peru, 1912-14.

even if Peruvians should cross the frontier, provided, of course, that it were not a great organized force. He believed that the police and the constabulary would be able to maintain order. In answer to another inquiry, the Minister also said that I could argue [*sic*] that he had given me the impression that should Peru insist, Chile might not find it inconvenient to agree that a person appointed by an impartial power should head the commission to supervise the plebiscite, although he was not prepared to make an official declaration binding his Government. As you may wish to give this Embassy and the Embassy in Peru special instructions, I have not repeated this information to Lima.

COLLIER

723.2515/785

The Chilean Ambassador (Mathieu) to the Secretary of State

[Translation]

WASHINGTON, December 15, 1921.

The Ambassador of Chile respectfully salutes His Excellency the Secretary of State and has the honor to send to him the text of the invitation extended by the Government of Chile to the Government of Peru referred to in Note No. 920 of the 13th instant from the Embassy of Chile.

The Ambassador of Chile avails himself of this opportunity to renew to His Excellency the Secretary of State the assurances of his most distinguished consideration.

[Enclosure—Telegram—Translation]

The Chilean Minister of Foreign Affairs (Barros Jarpa) to the Chilean Ambassador (Mathieu)

SANTIAGO, December 15, 1921.

Following is complete text of the note addressed on the 12th instant to the Minister of Foreign Relations of Peru:

Mr. Minister: The direct negotiations concluded between our governments in the month of November, 1912, for the purpose of fixing the bases for the plebiscite that was to have determined the definitive sovereignty over the territories of Tacna and Arica were interrupted during the last phases for reasons well known and wholly outside of our intervention. In view of the fact that our two governments had on that date, for the first time during the long protracted and sterile discussions that had gone before, reached the point of fixing by common accord the terms of the additional protocol contemplated in Clause 3 of the Treaty of Ancon, nothing could be more lamentable than that

the causes alluded to should have interrupted those negotiations, instituted as they had been to put a definitive end to the differences that separated, and still separate, our two nations. His Excellency the President of the Republic of Chile, who is firmly resolved to seek an early means of solving the Tacna and Arica problem, has instructed me to address myself to Your Excellency's Government to the end that a solution of the pending difficulties may be reached as soon as possible. No more just and equitable scheme for the loyal and honorable fulfillment of the Treaty of 1883 could be found than the negotiations of the year 1912 to which I allude at the outset, for, as Your Excellency doubtless knows, they fully satisfied the aspirations of the Peruvian Government which was careful to seek a formula that would avoid conferring on the Chilean Government the initiation of that scheme; and thus it was that on the same date and in the same hour of the month of November, 1912, the Ministers of Foreign Relations of the two countries exchanged identic telegraphic communications, reciprocally extending invitations to resume cordial and stable relations looking to national prosperity and the satisfaction of high American interests. In these telegraphic dispatches, which were immediately ratified through the same medium, it was provided that the plebiscite referred to in the Ancon pact for the termination of the definitive sovereignty of Tacna and Arica were to be held on the following bases:

1st. The plebiscite shall be held at poles [*polls*] under the direction of a commission that shall proceed by majority vote and shall be composed of five delegates, to wit, two Chileans, to be appointed by Chile, two Peruvians, to be appointed by Peru, and the President of the Supreme Court of Justice of Chile, who shall preside.

2d. Native born persons in Tacna and Arica, and Chileans and Peruvians who shall have resided three years in the territory, shall vote.

3d. All voters must be able to read and write.

Those simple rules, which, as we have stated, were immediately ratified by cable according to express agreement, removed the only difficulties that had presented themselves in the way of definitive fulfillment of Article 3d of the Ancon Treaty. That agreement having been adopted in terms so perfect and cordial, nothing should operate to cause their abandonment or to stand in the way of their realization. By that agreement the holding of the plebiscite was postponed until the year 1933; but such postponement would have the effect of keeping latent in America a cause for international conflict, possibly obliging Peru and Chile, and perhaps other countries, to bear excessive costs for military preparation in these times when the great transformation of war inviting [*invites*] the nations of this continent to dedicate their best efforts to the development and increase of their natural wealth.

The fact that our country is exercising sovereignty over Tacna and Arica, according to the express provisions of the Ancon Treaty, naturally makes the postponement of the plebiscite very advantageous for Chile, because of the natural increase of our interests year by year. Nevertheless, Chile, in deference to the lofty spirit of con-

tinental cordiality, is ready to accept an earlier date for the holding of the plebiscite than that fixed in the agreement of 1912 to which I have just referred. Inspired by these considerations, my Government invites the Government of Your Excellency to carry into effect without loss of time the agreements entered into in the month of November, 1912, for the holding of the plebiscite in Tacna and Arica that was stipulated for in Clause 3 of the Ancon Treaty. I rest in the confidence that Your Excellency's Government will not withhold its acceptance of this invitation, for it is founded upon the very bases proposed by the Government of Peru and inspired by the same principles—which, be it said, are less favorable for the country that exercises sovereignty—that were established for the plebiscitary acts contemplated in the Treaty of Versailles, in which pact the Government of Your Excellency concurred by its signature. In extending this invitation, which has been prompted by a high spirit of international harmony, I can assure Your Excellency that my Government will gladly accede to any suggestions which Your Excellency's Government may be pleased to make for the purpose of giving this act the highest measure of solemnity, and will join in guaranteeing, in the most absolute form, the free exercise of the wills of those who shall be called to decide the fate of those territories.

I avail myself of this opportunity to offer to Your Excellency the assurances of my highest and most distinguished consideration.

(Signed) Ernesto Barros J.

[No signature indicated]

723.2515/780 : Telegram

The Chargé in Peru (Sterling) to the Secretary of State

LIMA, December 15, 1921—4 p.m.

[Received December 16—10:10 a.m.]

84. In continuation of my telegram number 82, December 13, 11 p.m. Having received confirmation of authenticity of telegram, I saw the Minister for Foreign Affairs this morning. He stated that he would shortly call together the members of the committees of foreign affairs of both houses of Congress to discuss whether any reply should be sent to Chile and if so its tenor. He would inform me immediately of the decision. . . . I believe a reply, but not direct, will be made repudiating the invitation to reopen negotiations on the proposed bases giving reasons therefor and stating that the only possible solution is arbitration.

Press despatches of a few days ago emanating from Santiago accuse Peruvian Government of not allowing Chileans or Chilean products to enter Peru and of causing destruction of Chilean irrigation works on the frontier. A despatch from Chile is also carried in this morning's papers that clash has occurred between Peruvian

and Chilean troops. All of these reports are absolutely denied by the Minister of Foreign Affairs and Minister of War. The former states that these inventions were published to prepare the way for the Chilean telegram—to make it appear to the public in Chile that by offering to renew negotiations the Government is endeavoring to end an intolerable state of affairs. Furthermore as regards the telegram, that Chile being certain that Peru will either not reply or will repudiate negotiations on the proposed bases, is preparing the ground to conduct a unilateral plebiscite.

Press comment has been confined mostly to bitter criticism of Chile for sending its communication directly to a Government which had broken relations with her and to the impossibility of accepting her invitation in view of past acts.

In an interview given today by the President to the United Press he declared that Chile's offer cannot be accepted on the proposed bases. Chile's broken faith, the deportations and changed conditions allowed Peru only one course—arbitration. The incredible success of the Disarmament Conference had established the leadership of the United States more firmly than ever and he hoped for arbitration under American auspices. Peru was agreeing with Chile in a desire of a solution; her cards were all on the table and he hoped Chile would respond in like fashion. The tenor of the interview does not close the door to further negotiations.

STERLING

723.2515/1331

Memorandum by the Under Secretary of State (Fletcher)

[WASHINGTON,] *December 17, 1921.*

The Peruvian Ambassador called today to speak of the new turn that had been taken in the Tacna-Arica question by the invitation of the Chilean Government to proceed to hold the plebiscite, et cetera. He said that there was a feeling that Chile was not acting in good faith in this matter, and that false reports of mobilization on the part of Peru had been disseminated from Chilean sources with the idea of putting Peru in a wrong light; but in spite of this he had telegraphed his Government, on his own motion, recommending them to act temperately and in their reply not to close the door to further negotiations looking toward the settlement of this matter; that the public opinion of the world, in view of the success of the Washington Conference and the settlement of the Irish question, was all in favor of conciliation. He said that he thought this matter could not be settled by direct negotiations between Chile and Peru, and that all hope of settlement lay in a conference of, say, Argentina, Brazil, Chile, Peru, and the United States.

I replied that we had received no notice as to the probable reply of the Peruvian Government, but that the attitude of the United States had undergone no change; that if any settlement which was satisfactory to both parties could be arrived at, it would be a matter of immense gratification to us, and incidentally I referred to the fact that if the question of transmitting the reply which they intended to make to Chile through our Embassy came up, I would like him to explain to his Government that we would prefer, in the maintenance of our impartial attitude, not to act as the agent of either party in the exchanges now going on, and that this attitude was taken solely with the idea of not prejudicing our position in the eyes of either of the parties to the dispute. The Ambassador said that he understood this perfectly, and would take pains to explain it to his Government.

I told the Ambassador that I had seen by the papers that the Peruvian Government in its reply would claim that the Treaty of Ancon as a whole had been nullified by the failure to hold the plebiscite under Article 12 [3]. He said that while this claim might be made, it would be the extreme claim of Peru, but that naturally it would be susceptible of modification. He said, however, that he had not been advised as to what the answer would be, and hoped that his advice not to close the door to further negotiations would be heeded by his Government.

There was general conversation about the various phases of this long-standing controversy, and the burden of the Ambassador's contention was that it could never be settled except by the arbitration and interposition of other American countries. I was careful not to commit the Department one way or another as to this.

H[ENRY] P. F[LETCHER]

723.2515/780 : Telegram

The Secretary of State to the Chargé in Peru (Sterling)

[Paraphrase]

WASHINGTON, December 17, 1921—7 p.m.

59. Your telegram no. 84, December 15, 4 p.m. This Government desires that in the present negotiations between Peru and Chile, an attitude of the strictest impartiality be maintained, and that you carefully refrain, therefore, from any action which either party might possibly construe as a departure from such an attitude. The Department has sent similar instructions to the Embassy in Chile.⁵⁵

HUGHES

⁵⁵ Not printed.

723.2515/790

The Peruvian Ambassador (Pezet) to the Secretary of State

WASHINGTON, December 20, 1921.

EXCELLENCY: I have the honor to enclose herewith a copy of the telegraphic communication which my Government has sent to the Minister of Foreign Affairs at Santiago, Chile, in reply to the direct telegraphic communication sent by the Minister of Foreign Affairs of Chile to him on the twelfth instant.

And I take this opportunity to call the attention of Your Excellency to the fact that my Government while setting forth the powerful reasons that prevent it from accepting the invitation of the Chilean Government, expresses its willingness to have an impartial tribunal to arbitrate the questions now pending with Chile, and invites the said Government to submit together the entire question of the South Pacific to arbitration by the Government of the United States of America.

In proceeding thus, my Government is actuated by its desire to put an end to the most unfortunate inheritance of the war of 1879-1883, which has kept both nations apart and which constitutes while unsettled an ever recurring menace to the peace of the Continent and the harmony that should prevail among the Republics of America.

Only through an impartial arbitration such as my Government believes could be arranged through the benevolent assistance of the Government of the United States in benefit of both contending nations and in a desire to contribute to the elimination of a constant source of danger in our continent, could the end desired by Chile and Peru, as expressed in their exchanged communication, be achieved.

In placing these facts before Your Excellency I am solely acquainting you with the terms and purports of my Government['s] reply to the Minister of Foreign Affairs of Chile, leaving to my Government to select the time and opportunity to address itself to Your Excellency after receiving the reply of the Government of Chile.

I have [etc.]

F. A. PEZET

[Enclosure—Telegram—Translation]

The Peruvian Minister of Foreign Affairs (Salomón) to the Peruvian Ambassador (Pezet)

LIMA, December 18, 1921.

I am forwarding the reply which I am sending to-day⁵⁶ to the Chilean Government:—

⁵⁶ The Peruvian reply was dated Dec. 17, 1921.

To His Excellency the Minister of Foreign Affairs of Chile, Santiago.

Your Excellency: I have the honour to reply to the telegraphic communication from your Excellency, which, with some surprise, I received on the 12th. instant, and whose purpose is to invite my Government to execute what are termed telegraphic agreements which crossed between this Department and that which your Excellency directs, during the month of November, 1912.

My surprise is due to the fact that diplomatic relations having been interrupted between Peru and Chile since 1910,⁵⁷ a breach which was still further widened by the withdrawal of consular officials in 1918⁵⁸ owing to the violent persecution and forcible deportation of the Peruvian residents in the territories of Tacna, Arica and Tarapaca—which of itself would nullify any steps towards carrying out the plebiscite—yet it is felt that, in accordance with the rules of diplomatic procedure, as accepted by all countries, a means might have been found to resume the interrupted relations so as to be able to enter upon a peaceful examination of a political question, whose final solution, whatever its nature, will not be secured by irregular methods.

It is unusual to find that Your Excellency attributes executory value to a mere exchange of ideas, transmitted by telegraph, which, so as to carry all the force of an international agreement, were wanting in certain absolutely necessary conditions, and above all, should have received the legislative approval of both countries. Your Excellency is aware that your own Government discontinued these preliminary negotiations, as appears from the documents inserted in the Report of the Chilean Foreign Office for the period between October 1911 and July 1914, pages 288 to 293; a further proof thereof may be found in the fact that the appointment of Ministers to Lima and Santiago, of which mention was made in the telegrammes, were never carried out. For all these reasons, surprise has been felt that Your Excellency should invoke the ideas expressed during the course of a negotiation which failed and consider them as the first agreement between our Government[s], endeavouring to make use of them as a proper foundation for the carrying out of the plebiscite; while it is likewise surprising that Your Excellency should forget that conditions for this plebiscite were made fourteen years previously, in the protocol of the 19th [16th] of April 1898, which was approved by the Peruvian Congress and by the Chilean Senate, although to-day this same protocol could not be carried out by my Government when yours has disregarded the greater part of the terms of the Treaty of Peace and Amity of the 20th of October 1883, from which this protocol emanated.

I likewise consider indefensible Your Excellency's contention that the supposed bases of the negotiations of 1912 are inspired by the same principles as those which the Treaty of Versailles—of which Peru is one of the signatories—stipulates shall govern the plebiscites mentioned therein. It is only necessary to state in support of my assertion that the principal condition which was sought for these plebiscites, is the absolute freedom of the vote, in its threefold manifestation respecting the authority for its safeguard, the casting of

⁵⁷ See *Foreign Relations*, 1913, pp. 1178 ff.

⁵⁸ See *ibid.*, 1919, vol. 1, pp. 123 ff.

the ballots and the accuracy of the returns; meanwhile and subsequent to the forcible expulsion of the Peruvian population and to the insistence that the plebiscite be carried out under the jurisdiction of the nation in occupation, and which is directly interested in the result, the Chilean authorities of Tacna, Arica and Tarata, have, for the last month and acting upon instructions from headquarters, been assiduously campaigning to secure the signatures of residents of every nationality, in those provinces, to a printed form which contains the promise to vote in favour of Chile for the final annexation of the territory.

However, and notwithstanding the unjustifiable offenses committed by Chile against Peru for the last twenty seven years, my Government, solely in the interests of American cordiality, has decided to lay aside its deep resentment and wishes dispassionately to state that a plebiscite, carried out under Chilean auspices and after the lapse of so many years, instead of composing existing differences would only tend to increase them. The fervent desire of Peru is and ever has been to avoid any further motives for estrangement and hostility towards Chile, and to this end has endeavoured and will continue to seek an equitable solution of the question of the South Pacific by means of a sincere and impartial arbitration. Recently at Geneva the Chilean Government, through its representatives, denied jurisdiction to the League of Nations to interfere in the differences existing between Chile and Bolivia, on the ground that these constituted an American political problem. In recognition of this principle which implies, as a natural consequence, the obligation to secure its solution within our own continent, my Government, consistently following the traditions of its international policy in favour of arbitration, invite that of Your Excellency to submit together the entire question of the South Pacific, which has continued to keep them apart, to arbitration, arranged at the initiative of the Government of the United States of America, a step which, I am convinced, would assure the satisfactory solution of the question, fraught with so much danger to the peace of the continent, and put an end to all controversy, in accordance with the new tendencies towards Peace and Justice which today govern the world.

In submitting this proposal to Your Excellency's high judgment, I take this opportunity to tender the assurances of my highest and most distinguished consideration.

(signed) Alberto Salomón
Minister of Foreign Affairs.

[No signature indicated]

723.2515/792 : Telegram

The Chargé in Peru (Sterling) to the Secretary of State

[Paraphrase]

LIMA, December 22, 1921—6 p.m.

[Received December 23—9:37 a.m.]

89. Arbitration is not absolutely repudiated in the Chilean rejoinder to the Peruvian reply, but it is stated that the two countries

should first agree on the bases for taking the plebiscite. Peru's reply will be that this point is to be decided by arbitration.

So far the tone of the communications seems to give hope for continued negotiations. Bolivia, however, has intervened both in Santiago and here, to have herself included in the discussion; she contends that if Peru's 1-year arbitration, which she approves, be impossible, there should be convened a conference of the three countries, attended by a commissioner from the United States. It is the opinion of the Foreign Office here that to include [Bolivia] in the negotiations at the present time will complicate the question and render a settlement more difficult.

STERLING

723.2515/795 : Telegram

The Chargé in Peru (Sterling) to the Secretary of State

LIMA, December 27, 1921—6 p.m.

[Received December 28—12:10 a.m.]

91. Third Chilean note has been received here offering to appoint a commission to meet with a Peruvian commission in Washington to discuss their differences and adopt bases for arbitration. The Peruvian Government is pleased with its tone but considers it too vague in its terms. The reply will definitely invite Chile to make a joint request to the United States to arrange an arbitration on the entire question.

STERLING

AFGHANISTAN

EXCHANGE OF LETTERS BETWEEN PRESIDENT HARDING AND AMIR AMANULLAH KHAN OF AFGHANISTAN

033.90h11/14a

The Secretary of State to President Harding

WASHINGTON, July 18, 1921.

MY DEAR MR. PRESIDENT: There is a Mission here from Afghanistan apparently with full powers and desirous of having American participation in the development of that country. Apparently we have hitherto had no relations with Afghanistan directly as formerly our dealings with that country were through Great Britain. In 1919 Great Britain recognized the independence of Afghanistan. In a statement from the Viceroy to the Secretary of State for India, dated August 9, 1919, it was said:

“By the said Treaty, and this letter, therefore, Afghanistan is left officially free and independent in its affairs, both internal and external.”

I am informed that this Mission was received in France by M. Briand and by the President of the French Republic. Our Embassy in Paris was also advised by the British Ambassador at Paris that there was no objection to our receiving the Mission, although he added that the British Government did not look with favor on its activities or its endeavors to conclude agreements with other Governments inasmuch as Afghanistan, although ostensibly independent, was still within the British “sphere of political influence.”

There is, however, no way of having relations with Afghanistan at this time unless they are had directly and there is nothing in the British position which precludes our reception of the Mission.

It also appears that Afghanistan has made a treaty with the Soviet Government in which, among other things, it is agreed that the latter shall give a free subsidy yearly to the extent of one million roubles to Afghanistan, and also supply technical and other specialists. But the Soviet Government has dealings with other Powers with which we are in relation and I do not believe that the Soviet Treaty with Afghanistan furnishes a reason for precluding ourselves from the opportunity which otherwise might be open in that country.

I have informed the Mission that I shall receive them on Wednesday at the Department and I think that it would be well, if you approve, that you should also receive them. I do not think, however, that pending further inquiries it is necessary or advisable to go beyond their courteous reception.

Faithfully yours,

CHARLES E. HUGHES

033.90h11/14b

The Secretary of State to President Harding

WASHINGTON, July 21, 1921.

MY DEAR MR. PRESIDENT: Referring to our conversation yesterday afternoon with respect to the Mission from Afghanistan, I find that the members of the Mission do desire to be received by you,—in fact are quite keen about it—and if agreeable to you I shall be glad to advise them of an appointment for such time as you may suggest. Permit me again to bring to your attention the fact that according to the letter delivered to me, and on the basis of which I received the Mission, they are here merely as a special mission to press the request for the establishment of diplomatic relations. It appears that we have never had diplomatic relations with Afghanistan, in fact not even a consular representation in that country. Now that Great Britain has relinquished her protectorate, we cannot have any relations with Afghanistan except directly. If you approve, nothing further should be said at this time than that the matter will be taken under careful consideration. I also pointed out to the Mission the fact that if a permanent legation were to be established it would be necessary for Congress to make provision for it, as no such provision now exists.

While Great Britain has relinquished her protectorate, there is still some sensitiveness as to the making of any special agreements with Afghanistan, and I understand that there was some feeling created by the fact that Italy entered into such an agreement, and I am advised that in France the Mission was received but no promises were made.

My inquiry as to the commercial opportunities for our people in Afghanistan indicates that they are extremely limited; in fact, so far as our present information goes, there is little or no opportunity for trade, aside from the products of the sapphire and of the lapis lazuli mines.

I think that the special ambassador has a letter from the Amir addressed to you which he is desirous to deliver; this letter, I understand, is to the same effect as the one delivered to me, and involves no committal on your part if received.

Faithfully yours,

CHARLES E. HUGHES

033.90h11/15

The Secretary to President Harding (Christian) to the Secretary of State

THE WHITE HOUSE, July 22, 1921.

MY DEAR MR. SECRETARY: The President directs me to acknowledge the receipt of your letter of July 21st and to say that he will be glad to receive the members of the Mission from Afghanistan at the White House Tuesday afternoon, July 26th at 3:00 o'clock.

Sincerely yours,

GEO. B. CHRISTIAN, JR.

890h.001 Am 1/-

*Amir Amanullah Khan of Afghanistan to President Harding*¹

TO MY GREAT FRIEND, MR. PRESIDENT OF THE UNITED STATES OF AMERICA: Expressing my friendly feeling to Your Excellency, I intend to inform Your Excellency's high Government about my coronation.

After the tragic death of my father His Majesty Amir Habibulla Khan who was killed during His royal Territorial excursion, I came to the throne of Afghanistan, as it was my right and all public desire of Afghan nation.

For the expression of friendly feelings of my Government, I sent one of my Generals G. Mohemmed Wali Khan as Extraordinary Ambassador to Your Excellency's high Government.

As I used to have the sincere wish to establish a permanent friendly relation between Afghanistan and high Government of the United States, I expect that Your Excellency's high Government may be satisfied with the keeping of this friendly relation too.

Sending to Your Excellency my sincere greeting I beg to express herewith to Your Excellency and Your Excellency's high Government my highest esteem.

AMIR AMANULLAH KHAN

¹ Copy received by the Department is undated.

890h.001 Am 1/1

President Harding to Amir Amanullah Khan of Afghanistan

GREAT AND GOOD FRIEND: I have received from the hands of G. Mohemmed Wali Khan the letter by which Your Majesty advises me of the death of your father, his late Majesty Amir Habibullah Khan, and of your ascension to the throne of Afghanistan, as well as of your desire to establish friendly diplomatic relations between the United States and Afghanistan.

While I have learned with sorrow of the tragic death of Your Majesty's father, and offer to you my sincere sympathy in this great affliction, I congratulate Your Majesty on your ascension to the throne and trust that your reign will redound to Your Majesty's glory and the prosperity of Afghanistan.

It is my wish that the relations between the United States and Afghanistan may always be of a friendly character, and I shall be happy to cooperate with Your Majesty to this end. I am constrained, however, to confirm to Your Majesty what was stated orally to G. Mohemmed Wali Khan, that with respect to the United States the question of the creation of a Diplomatic Mission and of the appropriate action to that end by the Congress of the United States must be reserved for further consideration.

In thanking Your Majesty for your friendly sentiments, I desire to assure you of my own good wishes for your personal happiness and for the prosperity of your country.²

Your Good Friend,

WARREN G. HARDING

By the President:

CHARLES E. HUGHES

Secretary of State.

WASHINGTON, July 29, 1921.

707.1190h/- : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, August 21, 1921—8 a.m.

[Received August 22—9 p.m.]

46. I should appreciate the Department's telegraphic instructions as to my relations if any with the Legation of Afghanistan. Calls had been exchanged before I assumed charge and as I wished to

²The reception of the Afghan Mission by the President was generally accepted as according recognition to the regime of King Amanullah.

interest Afghanistan Minister in the possibility of American petroleum exploitation in his country I thought it best to continue informal personal relations but excused myself from attending official dinners. British [Legation] has no relations whatever with him.

Could the Department inform me for my guidance of the result of the recent Afghan mission to Washington as it aroused the greatest interest here; [it] is being widely discussed and perhaps misrepresented.

ENGERT

707.1190h/- : Telegram

The Secretary of State to the Chargé in Persia (Engert)

WASHINGTON, August 25, 1921—6 p. m.

24. Your 46, August 21, 8 a.m.

Your course approved. Mission announcing accession of Amir received July 20th by Secretary and 26th by President, who accepted and answered respectively letters from Foreign Minister³ and Amir. Overture toward establishment of diplomatic relations met by pointing out necessity of Congressional action and further consideration. Formal recognition of independence neither asked for nor granted.

³ Letter from Foreign Minister not printed.

HUGHES

ARGENTINA

CONFIRMATION TO THE ALL AMERICA CABLES, INCORPORATED, OF THE CONCESSION OF 1885 FOR A DIRECT CABLE FROM BUENOS AIRES TO BRAZIL¹

835.73/123

The Secretary of State to the Chargé in Argentina (White)

No. 639

WASHINGTON, May 5, 1921.

SIR: The Department has had under consideration the request of the All America Cables Company that the Department use its good offices in assisting that Company to have declared valid a concession to land a direct cable from Brazil to the Argentine, which was obtained from the Argentine Government in the year 1885. A memorandum submitted by the All America Cables Company calls the attention of the Department to the following facts:

In 1885, upon the instruction of the Department, the then American Minister to Buenos Aires, General Osborn, assisted the Central and South America Telegraph Company in obtaining necessary authorization to lay a cable between Buenos Aires and Brazil. The concession reads as follows:

[Here follow the terms of the concession printed in *Foreign Relations*, 1918, page 36.]

Before the Company could avail itself of the privileges of this concession in a practicable way, it was necessary for the Company to control the land line telegraphic system between Valparaiso and Buenos Aires. The Company, after several unsuccessful attempts, finally purchased the Transandine Telegraph Company's lines between Valparaiso and Buenos Aires in 1892.

The Company then sought authorization from the Government of Brazil to land on the shores of that Republic, the proposed cable from the Argentine. Further delay was encountered, owing to the existence of an exclusive concession, covering a period of twenty years to control cable communications between Brazil, Uruguay and Argentina, granted in 1893 to the Western Telegraph Company by the Brazilian Government. It is to be noted, however, that the Argentine Government has at no time declared that the concession of 1885 has expired through lapse of time.

In 1913, upon the expiration of the Western Telegraph Company's concession, the Central and South America Telegraph Company once more tried to get a concession to lay a cable directly from

¹ For previous correspondence, see *Foreign Relations*, 1918, pp. 35 ff.

Brazil to the Argentine. Due to the opposition of the Western Telegraph Company and the consequent litigation, it was not until August 11, 1917 that the concession was granted by the Brazilian Government.²

Although the Company obtained a concession from the Government of Argentina in 1919 to lay a sub-fluvial cable from Buenos Aires to Montevideo³ and was granted a further concession by the Brazilian Government to connect by cable the city of Montevideo with Rio de Janeiro and by another cable Montevideo with Santos,⁴ the Company desires to put into effect the provisions of its 1885 concession which the Company still regards as valid and which permits the landing in the Argentine of a direct cable from Brazil.

In this connection, the Company calls the Department's attention to a memorandum presented in 1914 to the Argentine Government by the then Minister, Mr. Charles Sherrill, at the direction of the Department of State,⁵ setting forth that the Company could not be considered delinquent in availing itself of the terms of the concession, in view of the action of the Brazilian Government in 1895 [1893], in granting the Western Telegraph Company a twenty-year monopoly for cable communications between Brazil and the Argentine.

In view of the special importance which this Government attaches to the development of an all-American cable system on the American continent, you are instructed to render all appropriate assistance to Dr. Beccar Varela, Counsel for the All America Cables Company in Buenos Aires, in his efforts to cause the Argentine Government to recognize as valid the concession of 1885. In this connection, the Department understands that Dr. Beccar Varela is ready to place at the disposal of the Embassy any information in his possession.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

835.73/132

The Chargé in Argentina (White) to the Secretary of State

No. 1796

BUENOS AIRES, December 29, 1921.

[Received January 26, 1922.]

SIR: Supplementing my despatch (No. 1751) of the 9th ultimo⁶ with regard to the petition of the All America Cables, Incorporated, requesting the Argentine Government to recognize the validity of its

² *Foreign Relations*, 1918, p. 52.

³ *Ibid.*, 1919, vol. I, p. 175.

⁴ See *Ibid.*, pp. 193 ff.

⁵ The Department's instruction of Sept. 4, 1914, and the memorandum of Sept. 9, 1914, to the Argentine Government are not printed. The memorandum was not presented by Charles Sherrill; it was presented by George Lorillard, Chargé during the absence of John W. Garrett, the American Minister at that time, Charles Sherrill having been superseded by Mr. Garrett in 1911.

⁶ Not printed.

1885 concession, I have the honor to inform you that a decree recognizing the validity of the concession in question and fixing a term of twelve months from the date of the signature of the respective contracts within which the cable must be put in operation, has been drawn up and is now receiving the consideration and awaiting the signature of the Minister of the Interior. A copy and translation of the proposed decree are enclosed herewith.

At the request of the All America Cables, I yesterday spoke with the Minister for Foreign Affairs in regard to this matter and he promised to use his influence in having the decree signed.⁷

I have [etc.]

FRANCIS WHITE

[Enclosure—Translation⁸]

Draft Executive Decree of November 16, 1921, Recognizing the Validity of the Decree of June 22, 1885

In view of this petition, by which the All America Cables, Inc., formerly the Central and South American Telegraph Co., solicits the recognition of the concession granted to it by the Argentine Government by a decree of June 22, 1885, for the laying of a cable from the coast of Brazil to the Argentine capital:

In consideration of the fact that the doubt as to whether or not said concession is valid is dispelled by the categorical and positive opinion handed down by the Attorney General of the Nation; and

In view of the advantages with which it will benefit the public service;

THE EXECUTIVE POWER OF THE NATION

DECREES:

ARTICLE I. The decree of June 22, 1885, which grants the Central and South American Telegraph Company, now All America Cables, Inc., the right to lay a telegraph cable from the coast of Brazil to the capital of the Argentine Republic, is declared to be valid.

ARTICLE II. The company referred to is to be granted a period of 12 months counting from the date of the signature of the necessary contracts, to put it into operation in the service of the public, previous approval of its plans being required.

ARTICLE III. The General Direction of Posts and Telegraphs will draw up the bases for the necessary contract.

ARTICLE IV. To be communicated, published, given to the National Registry, and conveyed to the General Direction of Posts and Telegraphs for appropriate action.

⁷ The decree was signed Jan. 12, 1922.

⁸ File translation revised.

AUSTRALIA

ACQUIESCENCE BY THE UNITED STATES IN THE EXPATRIATION AFTER JULY 2, 1921, OF AMERICAN CITIZENS NATURALIZED IN FOREIGN COUNTRIES DURING THE WAR

136/234

*The Consul General at Melbourne (Sammons) to the Secretary of
State*

No. 433

MELBOURNE, *December 16, 1920.*

[Received January 17, 1921.]

Subject: Naturalization of American Citizens under Australian
Commonwealth Laws.

SIR: I have the honor respectfully to invite the Department's attention to my communication (File No. 130, copy enclosed) of even date to the Secretary of the Australian Department of Home and Territories on the above subject, and to request instructions in the premises.

The Australian Commonwealth authorities in the meantime, regardless of the notifications I have given in the matter to the effect that our country is still at war with Germany, continue the naturalization of American citizens under the Commonwealth Laws.

I have [etc.]

THOMAS SAMMONS

[Enclosure]

*The American Consul General at Melbourne (Sammons) to the
Australian Secretary for Home and Territories (Hunt)*

MELBOURNE, *December 16, 1920.*

DEAR MR. HUNT: With reference to the matter of the naturalization of American citizens under the Commonwealth Laws, may I again refer to my letter to you of August 21, 1920, inviting your attention to the fact that Section II of the Act of March 2, 1907 of the United States Statutes, reads in part as follows:

"And provided also, that no American Citizen shall be allowed to expatriate himself when this country is at war".

As you are no doubt aware, peace has not yet been concluded in a technical sense between my country and Germany and a state of war exists.

I have also to call your attention to our conversation of April 12, 1920, when you were advised that it would be impracticable for Mr. William Cameron to change his citizenship from American to British allegiance on account of this wartime situation.

In the meantime I am referring this matter to the Department of State, Washington, D.C.

Faithfully yours,

THOMAS SAMMONS

136/234

*The Secretary of State to the Consul General at Melbourne
(Sammons)*

WASHINGTON, July 22, 1921.

SIR: The Department has received your despatch No. 433 of December 16, 1920, enclosing a copy of your communication addressed to the Secretary of the Australian Department of Home and Territories. It appears that the Australian authorities, though advised by you of the last proviso of Section 2 of the Act of March 2, 1907, which provides that no American citizen shall be allowed to expatriate himself when this country is at war, nevertheless continue the naturalization of American citizens under the Commonwealth laws.

While it was appropriate for you, during the period that the proviso above quoted was operative, to inform the Australian authorities of the American Law precluding expatriation in time of war, yet you will understand that the municipal law of this country has no more weight in a foreign country than the officials of that country may choose to accord it. The Government of the United States in admitting foreigners to citizenship has never concerned itself with the status of such persons under the laws of their countries of origin. Obviously this Government is not in a position to dictate to foreign governments with regard to the naturalization of American citizens under their laws.

With reference to recent naturalizations of Americans in Australia, it may be observed that, whatever may have been the effect of the Joint Resolution of Congress of March 3, 1921,¹ the Department is of the opinion that under the Joint Resolution of July 2,² terminating the state of war, the proviso of the Act of March 2, 1907, is made inoperative, and that accordingly Americans who have been naturalized in a foreign country or taken an oath of allegiance to a foreign country since July 2, 1921, have expatriated themselves.

I am [etc.]

For the Secretary of State:

WILBUR J. CARR

¹ 41 Stat. 1359.

² See telegram no. 1231, July 5, to the Commissioner at Berlin, vol. II, p. 3.

136/256

The Vice Consul in Charge at Melbourne (Fox) to the Secretary of State

No. 772

MELBOURNE, *November 7, 1921.*

[Received December 8.]

SIR: I have the honor to refer to the Department's instruction, (File 136/234 PC), of July 22, 1921, relative to the applicability of the last proviso of Section 2 of the Act of March 2, 1907, (which provides that no American citizen shall be allowed to expatriate himself while the United States is at war), to those citizens who may have become naturalized in a foreign country during the period between April 6, 1917, and July 2, 1921, keeping in mind the Joint Resolution of Congress of July 2, 1921.

The Department's instruction, above referred to, states that the Joint Resolution of July 2, 1921, has terminated the state of war and has made the proviso of March 2, 1907, inoperative and that, accordingly, "American citizens who have been naturalized in a foreign country or taken an oath of allegiance to a foreign country since July 2, 1921, have expatriated themselves". The Department's attention is invited to the fact that this answer does not seem to cover the situation under consideration and it is respectfully requested that information be received as to whether or not the rights arising out of peace are retroactive, and also whether those citizens who may have become naturalized in some foreign country during the period between April 6, 1917, and July 2, 1921, have been relieved of the operation of the proviso above referred to.

In the absence of instruction from the Department, it is presumed that the Joint Resolution of July 2, 1921, was retroactive in its effect and that those citizens who may have become naturalized in a foreign country during the period when the United States was engaged in hostilities are relieved of the application of the proviso and their expatriation has been accomplished.

I have [etc.]

RAY FOX

136/256

*The Secretary of State to the Consul General at Melbourne
(Sammons)*

WASHINGTON, *December 28, 1921.*

SIR: The Department has received your despatch No. 772 of November 7, 1921, in reference to its instruction of July 22, concerning the citizenship status of Americans naturalized in Australia.

You call attention to the proviso of Section 2 of the Act of March 2, 1907, that "no American citizen shall be allowed to expatriate himself while this country is at war", and to the Joint Resolution of Congress of July 2, 1921, terminating the War; and you inquire concerning the status of any American who may have been naturalized in Australia between April 6, 1917, and July 2, 1921.

You are informed that the Department is of the opinion that the first paragraph of Section 2 of the Act of March 2, 1907, refers not merely to the act of naturalization but to the state of owing allegiance to a foreign government as well. Accordingly, whatever may have been the effect of the Joint Resolution of March 3, 1921, the Department understands that in view of the Joint Resolution of July 2, 1921, terminating the state of war, Americans who were naturalized while this country was at war and who remained citizens of the foreign state on the date last mentioned must be deemed expatriated as of that date.

I am [etc.]

For the Secretary of State:

WILBUR J. CARR

AUSTRIA

TREATY BETWEEN THE UNITED STATES AND AUSTRIA ESTABLISHING FRIENDLY RELATIONS, SIGNED AUGUST 24, 1921

711.63119/- : Telegram

The Secretary of State to the Commissioner at Vienna (Frazier)

WASHINGTON, August 5, 1921—1 p.m.

291. Having in mind reservations in Section 2, Peace Resolution,¹ ascertain, by informal inquiry, whether Austrian Government intends to raise any question as to any of the rights, interests and advantages as stipulated for the benefit of the United States in Treaty of Saint Germain, referring especially to Parts V, VI, VIII, IX, X, XI, XII, and XIV, of that Treaty, including participation in Reparation Commission and any other Commissions which have been or may be established under said Treaty, so far as the United States may desire to participate.

Peace Resolution clearly indicates views of Congress that those rights, interests and advantages should be secured to the United States and this Government will not enter into any Treaty which fails to secure them.

Have it clearly understood that resumption of diplomatic relations, which is in discretion of President, and further steps with respect to relations between United States and Austria, will largely depend on attitude of Austrian Government in this matter.

While your communication will be informal, desire authoritative and definite answer so that this Government may know exact situation.

The Department desires to be informed as to whether the Government of Austria would be willing to enter into a protocol which would confirm all the rights and privileges mentioned above. It is expected that other powers would agree to this, and that in this way it might be possible to bring about immediately the making of a definite treaty, thereby establishing normal conditions and avoiding questions which might arise to delay action were the treaty of Saint Germain, with necessary reservations, to be resubmitted to the Senate.²

HUGHES

¹ Joint Congressional Resolution of July 1, 1921, approved by the President July 2; see telegram no. 1231, July 5, to the Commissioner at Berlin, vol. II, p. 3.

² Last paragraph paraphrased.

711.63119/3 : Telegram

The Commissioner at Vienna (Frazier) to the Secretary of State

VIENNA, August 12, 1921—noon.

[Received August 13?—1:11 a.m.]

148. Referring to my number 145 Aug. 10, 9 a.m.³ The following communication received from Federal Chancellor this morning:

“The Federal Government is firmly resolved to consider the rights, interests and advantages derived from the Treaty of Saint Germain and especially from parts 5, 6, 8, 9, 10, 11, 12, and 14 of that Treaty, also as strictly for the benefit of the United States. It is evident that my foregoing assertion applies also to the participation of the U[nited] S[tates] in the Reparations Commission and in any other commission which may have been or may be established under the provisions of the Treaty of Saint Germain so far as the United States may desire to participate. The Federal Government, far from raising any objection, would welcome a participation of the United States in such commissions the more gladly as it confidently hopes that the United States’s taking an active part in the work of these bodies could only be for the sake of general peace and welfare.”

FRAZIER

711.63119/-

The Secretary of State to the Commissioner at Vienna (Frazier)

No. 359

WASHINGTON, August 16, 1921.

SIR: I enclose herewith a draft of a proposed treaty with Austria,⁴ which the Department will communicate to you by telegraph with appropriate instructions. The enclosed draft should be carefully compared with the draft sent you by telegraph to ascertain whether the latter contains any errors. I also enclose the President’s Full Power,³ which will likewise be communicated to you by telegraph, to sign the treaty.

I am [etc.]

CHARLES E. HUGHES

711.63119/16

The Commissioner at Vienna (Frazier) to the Secretary of State

No. 306

VIENNA, September 6, 1921.

[Received September 20.]

SIR: In confirmation of my telegram No. 155 dated August 24th, 1 p.m.,³ with regard to the signing of the Peace Treaty between the United States and Austria, I have the honor to report that in the

³ Not printed.⁴ Enclosed draft not printed; it is substantially the same as the final text printed on p. 274.

first draft which was signed on the 24th ultimo and mailed to the Department on the same day, the telegraphic text of the Porter-Knox Resolution was checked by a copy of Public Resolution No. 8—67: Congress which had come into possession of the Foreign Office. As I did not at the time see why reference should be made to Germany in a treaty with Austria such reference was replaced in the text of the resolution by asterisks. I am sorry to say that the phrase "Who, having communicated their full powers, found to be in good and due form" was omitted. As both the Foreign Office officials and I agreed that such omission might be considered a legal defect, the Chancellor and I decided to sign another draft. After this decision it seemed best to make the new draft correspond accurately with the mailed copy enclosed in the Department's instruction No. 359 of August 16, 1921, (File No. 711.63110/-)' and the reference to Germany was therefore incorporated in the new draft.

I have the further honor to report that the Federal Chancellor signed both copies of the Treaty, the copy mailed to the Department and the copy retained in the Austrian Foreign Office in the English language. As no one suggested that one copy should be signed in German I did not think it was for me to make any objection, especially as I am mindful of the advantage of having only one text to interpret. I am, however, aware that this practice is unusual.

In terminating this despatch it is a pleasure to inform the Department that in my experience with Foreign Offices I have never found greater courtesy nor a more conciliatory and reasonable spirit than was displayed by the Federal Chancellor in his preliminary conversations regarding the Treaty.

I have [etc.]

ARTHUR HUGH FRAZIER

711.63119/15

The Commissioner at Vienna (Frazier) to the Secretary of State

No. 309

VIENNA, *September 6, 1921.*

[Received September 20.]

SIR: With reference to my despatch No. 306 of to-day's date, I have the honor to transmit herewith enclosed a corrected copy of the treaty of peace between the United States and Austria dated August 24, 1921, signed by the Austrian Federal Chancellor and myself.^a

I have [etc.]

ARTHUR HUGH FRAZIER

¹ Should read "File No. 711.63119/-".

^a See final text, p. 274.

711.63119/22b

The Secretary of State to the Commissioner at Vienna (Frazier)

No. 398

WASHINGTON, *October 24, 1921.*

SIR: There is transmitted in the pouch with this instruction a package containing the President's instruments of ratification^o of the Treaty between the United States and Austria, signed at Vienna on August 25 [24], 1921, which you will exchange for the ratification on the part of Austria; also the President's full power^o authorizing you to effect the exchange and a form of protocol attesting the exchange which you are to sign in duplicate with the Austrian plenipotentiary at the time of making the exchange. Before proceeding to the exchange you should be careful to see that the text of the Treaty as contained in the Austrian instrument of ratification conforms with the text of the Treaty as contained in the instrument of ratification of the United States.

As soon as the exchange shall have been effected you will please inform me of the fact by cable, stating in your telegram the date of the exchange and the date of the Austrian instrument of ratification. The Austrian instrument of ratification and the American copy of the signed protocol of exchange should be promptly forwarded by you to the Department.

Should any question be raised by the Austrian Government with respect to the form of the Resolution by which the Senate gave advice and consent to the ratification of the Treaty, you will readily be able to make a satisfactory explanation to remove any possible misapprehension regarding the matter. The terms of the Resolution with respect to participation of the United States in any agency or commission under the treaty of course relate merely to matters of domestic policy and procedure which are of no concern to the Austrian Government. The Senate expressed their understanding in the Resolution, evidently out of abundance of caution, that the rights and advantages which the United States is entitled to have and enjoy under the Treaty embrace the rights and advantages of nationals of the United States specified in the Joint Resolution of Congress of July 2, 1921, and in the Treaty of St. Germain-en-Laye. Negotiations with reference to the Treaty show that there has been no question between the contracting parties with regard to this obviously correct construction, and the understanding of the Senate as expressed in their Resolution is, of course, in no way at variance with the terms of the Treaty.

I am [etc.]

CHARLES E. HUGHES

^oNot printed.

711.63119/26

The Commissioner at Vienna (Frazier) to the Secretary of State

No. 391

VIENNA, November 8, 1921.

[Received December 1.]

SIR: I have the honor to acknowledge the receipt of your instruction numbered 398 and dated October 24th, 1921, transmitting the President's instruments of ratification of the treaty between the United States and Austria signed at Vienna on August 24, 1921 and directing me to exchange them for corresponding instruments of ratification on the part of Austria.

In reply I have the honor to state that in conformity with your instruction I effected this exchange today with the Federal Chancellor of Austria, Herr Schober. To avoid any question being raised by Herr Schober with regard to the form of the resolution by which the Senate gave advice and consent to the ratification of the treaty, I explained to him that the terms of the resolution which follows the actual treaty referred to matters of domestic policy and procedure of the United States and consequently did not concern the Austrian Government. The Federal Chancellor expressed himself as fully satisfied with my explanation.

I have the further honor to transmit herewith enclosed the Austrian instrument of ratification and the protocol attesting the exchange of ratification duly signed by the Federal Chancellor and myself.¹⁰

I have [etc.]

ARTHUR HUGH FRAZIER

Treaty Series No. 659

*Treaty between the United States of America and Austria,
Signed at Vienna, August 24, 1921*¹¹

THE UNITED STATES OF AMERICA AND AUSTRIA:

Considering that the United States, acting in conjunction with its co-belligerents entered into an Armistice with Austria-Hungary on November 3d, 1918, in order that a Treaty of peace might be concluded;

Considering that the former Austro-Hungarian Monarchy ceased to exist and was replaced in Austria by a republican Government;

Considering that the Treaty of St. Germain-en-Laye to which Austria is a party was signed on September 10th, 1919, and came

¹⁰ Enclosures not printed.

¹¹ Ratification advised by the Senate, with reservations, Oct. 18, 1921; ratified by the President, Oct. 21, 1921; ratified by Austria, Oct. 8, 1921; ratifications exchanged at Vienna, Nov. 8, 1921; proclaimed, Nov. 17, 1921.

into force according to the terms of its Article 381, but has not been ratified by the United States;

Considering that the Congress of the United States passed a Joint Resolution approved by the President July 2d, 1921, which reads in part as follows;

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, . . .

“That the state of war declared to exist between the Imperial and Royal Austro-Hungarian Government and the United States of America by the joint resolution of Congress approved December 7th, 1917, is hereby declared at an end.

“Sec. 4. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 3d, 1918, or any extension or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the Treaty of St. Germain-en-Laye or the Treaty of Trianon, have been stipulated for its or their benefit; or to which it is entitled as one of the principal Allied and Associated Powers; or to which it is entitled by virtue of any Act or Acts of Congress; or otherwise.

“Sect. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals which was on April 6th, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property, of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7th, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government or its agents, or the Imperial and Royal Austro-Hungarian Government or its agents since July 31st, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise and also shall have granted to persons

owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial property rights and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government or its successor or successors shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America.”

Being desirous of establishing securely friendly relations between the two Nations;

Have for that purpose appointed their plenipotentiaries;

The President of the United States of America :

ARTHUR HUGH FRAZIER

and the Federal President of the Republic of Austria :

JOHANN SCHÖBER

Who, having communicated their full powers, found to be in good and due form, have agreed as follows :

ARTICLE I

Austria undertakes to accord to the United States and the United States shall have and enjoy all the rights, privileges, indemnities, reparations or advantages specified in the aforesaid Joint Resolution of the Congress of the United States of July 2d, 1921, including all the rights and advantages stipulated for the benefit of the United States in the Treaty of St. Germain-en-Laye which the United States shall fully enjoy notwithstanding the fact that such Treaty has not been ratified by the United States. The United States in availing itself of the rights and advantages stipulated in the provisions of that Treaty, will do so in a manner consistent with the rights accorded to Austria under such provisions.

ARTICLE II

With a view to defining more particularly the obligations of Austria under the foregoing Article with respect to certain provisions in the Treaty of St. Germain-en-Laye, it is understood and agreed between the High Contracting Parties :

(1) That the rights and advantages stipulated in that Treaty for the benefit of the United States which it is intended the United States shall have and enjoy, are those defined in Parts V, VI, VIII, IX, X, XI, XII and XIV.

(2) That the United States shall not be bound by the provisions of Part I of that Treaty nor by any provisions of that Treaty including those mentioned in paragraph (1) of this Article which relate to the Covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations or by the Council or by the Assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, Part IV and Part XIII of that Treaty.

(4) That, while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that Treaty and in any other commission established under the Treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in Article 381 of the Treaty of St. Germain-en-Laye shall run, with respect to any act or election on the part of the United States, from the date of the coming into force of the present Treaty.

ARTICLE III

The present Treaty shall be ratified in accordance with the constitutional forms of the High Contracting Parties and shall take effect immediately on the exchange of ratifications which shall take place as soon as possible at Vienna.

In witness whereof, the respective plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in Vienna, this twenty fourth day of August 1921.

[SEAL] ARTHUR HUGH FRAZIER

[SEAL] SCHOBER

[RATIFICATION BY PRESIDENT HARDING, CONTAINING SENATE RESERVATIONS]

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, That whereas a Treaty between the United States of America and Austria to restore the friendly relations existing between the two nations prior to the outbreak of war, was concluded and signed by their respective plenipotentiaries at Vienna on August 24, 1921, the original of which Treaty, in the English language, is hereto annexed:

And Whereas, the Senate of the United States, by their resolution of October 18, 1921, (two-thirds of the Senators present concurring

therein) did advise and consent to the ratification of the said Treaty, subject to the understanding, made a part of the resolution of ratification, "that the United States shall not be represented or participate in any body, agency or commission, nor shall any person represent the United States as a member of any body, agency or commission in which the United States is authorized to participate by this Treaty, unless and until an Act of the Congress of the United States shall provide for such representation or participation;" and subject to the further understanding, made a part of the resolution of ratification, "that the rights and advantages which the United States is entitled to have and enjoy under this Treaty embrace the rights and advantages of nationals of the United States specified in the Joint Resolution or in the provisions of the Treaty of Germain-en-Laye to which this Treaty refers":

Now, therefore, be it known that I, Warren G. Harding, President of the United States of America, having seen and considered the said Treaty, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof, subject to the understandings hereinabove recited.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington, the twenty-first day of October, in the year of Our Lord one thousand nine [SEAL] hundred and twenty-one, and of the Independence of the United States of America the one hundred and forty-sixth.

By the President:

WARREN G. HARDING

CHARLES E. HUGHES

Secretary of State.

[Treaty Series No. 659, published by the Department of State, includes, as an appendix to the text of the treaty establishing friendly relations between the United States and Austria, the text of parts V, VI, VIII, IX, XI, XII, and XIV of the Treaty of St. Germain-en-Laye, signed September 10, 1919.]

701.6311/319 : Telegram

The Commissioner at Vienna (Frazier) to the Secretary of State

VIENNA, November 8, 1921—11 a.m.

[Received 3:19 p.m.]

205. Austrian Government desires to ascertain unofficially whether the American Government would have any objection to Edgar

Prochnik as Chargé d'Affaires *ad interim* as soon as the treaty of peace comes into effect until the definite appointment of a Minister can be made. It is the wish of the Austrian Government to avoid any delay in the resumption of diplomatic relations.¹²

FRAZIER

123 F 861/132a : Telegram

The Secretary of State to the Commissioner at Vienna (Frazier)

WASHINGTON, November 19, 1921—6 p.m.

365. By the exchange of ratifications November 9 [8], 1921, and by Executive Proclamation November 18 [17?], 1921, diplomatic relations between the United States and Austria may be resumed.

You are instructed to request your provisional recognition as Chargé d'Affaires pending arrival letters of credence.

As soon as you have been received, you will advise the Department thereof and request the Foreign Office to recognize the diplomatic secretaries of your staff and, as Military Attaché, Lieutenant Colonel Allen L. Briggs. Also request temporary recognition pending issuance of exequaturs following consular appointments: Carol H. Foster, Consul in charge at Vienna, Robert Heingartner, Consul on detail, and Joseph Burt, Vice Consul.

When you have been recognized by the Government inform consuls and direct them to function and to take over any furniture, archives and other American Government property which may still be in the hands of Spanish Consuls in charge of American interests.

Arrangements are being made with the Spanish Government for the return, upon request, of all United States Government property held by the diplomatic and consular representatives of Spain in Austria.

Inform Consuls.

HUGHES

123 F 861/134 : Telegram

The Chargé in Austria (Frazier) to the Secretary of State

VIENNA, November 30, 1921—2 p.m.

[Received 10:10 p.m.]

215. My telegram number 212, November 26, 12 noon.¹³ Austrian Government recognized me as Chargé d'Affaires and received me as such November 26th.

FRAZIER

¹² This Government having no objection, Mr. Prochnik presented his credentials as Chargé on Dec. 27.

¹³ Not printed.

BELGIUM

DRAFT MANDATES AND OTHER DOCUMENTS RELATING TO TERRITORIES UNDER MANDATE

(See pages 96 ff.)

BOLIVIA

RECOGNITION OF THE SAAVEDRA GOVERNMENT BY THE UNITED STATES¹

824.00/170 : Telegram

The Minister in Bolivia (Maginnis) to the Acting Secretary of State

LA PAZ, *January 25, 1921—10 p.m.*

[Received January 26—11:45 a.m.]

12. Majority of 47 Republicans today voted solid electing Saavedra President of the Republic; minority [of] 33 Republicans, 1 Radical, 2 Liberals out of convention.

Labor organizations yesterday sent demand to the convention for an apology from Mizralde for remarks to their representatives which precipitated walk-out of minority. This afternoon, no apology having been made, workers on all railroads struck tying up traffic. Plan was for employees [of] electric-light plants, telephone, and tramway also to strike, but troops guarding electric-light plants have prevented spread of strike.

MAGINNIS

824.00/170 : Telegram

The Secretary of State to the Minister in Bolivia (Maginnis)

WASHINGTON, *January 27, 1921—5 p.m.*

3. Your January 25, 10 p.m.

Cable Department whether, in your opinion, disturbances are likely to occur which would prove embarrassing to the United States if the Government of Bolivia were accorded formal recognition after the inauguration of Saavedra. Will the convention continue to function as a congress for the constitutional period, or will new general elections be held next May?

COLBY

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. I, pp. 372 ff.

824.00/171 : Telegram

The Minister in Bolivia (Maginnis) to the Secretary of State

LA PAZ, January 28, 1921—5 p.m.

[Received January 29—10:45 a.m.]

13. Your 3, January 27, 5 p.m. Saavedra inaugurated this afternoon, will probably announce Cabinet within next few days. Convention will now take up various proposed amendments to Constitution including question whether or not it will constitute itself the Congress of Bolivia or call for elections.² Railway strike settled today. Situation perfectly tranquil. Understand minority will return to convention tomorrow or Monday. In my opinion there is no danger of disturbances at present, only question is whether Saavedra will secure cooperation of other leaders in forming strong government. I suggest waiting for few days before recognizing.

MAGINNIS

824.00/153 supp. : Telegram

*The Secretary of State to the Ambassador in Argentina (Stimson)*³

[Paraphrase]

WASHINGTON, January 31, 1921—5 p.m.

13. Department's telegrams of September 27, 1920, 6 p.m. and December 9, 1920, 2 p.m.⁴

The Department desires you to inform the Minister of Foreign Affairs that the Government of the United States, in view of the fact that the election of Dr. Bautista Saavedra to the Presidency of Bolivia was conducted in conformity with the provisions of the Bolivian Constitution as amended by the Constitutional Convention elected in November 1920, has now determined to extend recognition to the existing Government of Bolivia, not as the *de facto* Government, but as the Constitutional Government of that Republic. This Government will delay the formal act of recognition for a few days until assured that the stability of the present Bolivian Government will not be menaced by any outbreak of disorders. The Government of Argentina will receive notification of the date on which the United States will extend recognition.

You should inquire also whether the Government of Argentina finds itself in agreement with the decision of the United States, and

²The convention voted June 17, 1921, to constitute itself the Congress of Bolivia (file no. 824.00/217).

³The same, *mutatis mutandis*, to the Ambassador in Brazil (no. 16).

⁴*Foreign Relations*, 1920, vol. I, pp. 381 and 385, respectively.

whether it will be disposed to proceed simultaneously with the United States in extending formal recognition to the Government of Bolivia. You may say to the Minister of Foreign Affairs that it is the belief of the Department that the Governments of Argentina, Brazil, and the United States have contributed to the peaceful and orderly development of Constitutional Government in this hemisphere, and have also given significant evidence of the similarity in the ideals of the three Republics, by their action in postponing recognition of the new Bolivian Government until that Government had definitely shown that it represented the will of the great majority of the Bolivian people, and until it had been established in accordance with the provisions of the Bolivian Constitution.

COLBY

824.00/171 : Telegram

The Secretary of State to the Minister in Bolivia (Maginnis)

WASHINGTON, January 31, 1921—5 p.m.

5. Your January 28, 5 p.m.

The President has determined to recognize the new Government of Bolivia as the Constitutional Government of that Republic. Recognition will, however, be postponed until the Department is advised by you of the organization of Dr. Saavedra's Administration and until you have informed the Department that the tranquillity of the local situation, in your opinion, warrants it. The Department has communicated the decision reached to the Governments of Argentina and Brazil and expects that recognition will be extended by those two Governments upon the same date as by the United States. The Department, therefore, desires you to cable when you believe that the suitable time for recognition has arrived, and to take no steps towards recognition until receipt of instructions from the Department.

COLBY

824.002/52 : Telegram

The Minister in Bolivia (Maginnis) to the Secretary of State

[Extract]

LA PAZ, February 1, 1921—2 p.m.

[Received 11 p.m.]

15. . . .

Your 20 [5], January 31st. Situation tranquil and unless something unforeseen occurs, would recommend that recognition should be extended next week after carnival.

MAGINNIS

824.00/176 : Telegram

The Ambassador in Argentina (Stimson) to the Secretary of State

[Paraphrase]

BUENOS AIRES, *February 2, 1921—1 p.m.*

[Received 9:12 p.m.]

29. Your telegram no. 13, January 31, has been acted upon. I was informed by the Under Secretary of Foreign Affairs that the recognition of Bolivia has already been the subject of discussion between the Department and the Argentine Ambassador in Washington. The Ambassador has been instructed to inform you that his Government concurs fully in the decision taken by the Government of the United States, and has suggested February 5th as the date to extend recognition to the Bolivian Government. If, in the Department's opinion, this date is too early, the Argentine Government will gladly accept a later date.

STIMSON

824.00/176 : Telegram

The Secretary of State to the Ambassador in Argentina (Stimson)

[Paraphrase]

WASHINGTON, *February 4, 1921—1 p.m.*

15. Your telegram of February 2, 1 p.m., and Department's no. 13, January 31, 5 p.m. You will inform the Minister of Foreign Affairs that this Government is gratified to learn that the Argentine Government is in accord with the decision of the United States to recognize the Government of Bolivia. February 5, the date proposed by the Argentine Government on which recognition should be extended to Bolivia, was in the opinion of the Department somewhat premature in view of the rumors received by it regarding unrest in Bolivia, and the Argentine Ambassador here was so advised. You will inform the Minister of Foreign Affairs that recognition will be extended to the Bolivian Government by the American Minister at La Paz on February 9, and you will convey to His Excellency the earnest hope of this Government that Argentina will extend recognition the same day.

COLBY

824.00/171 supp. : Telegram

The Secretary of State to the Minister in Bolivia (Maginnis)

WASHINGTON, *February 4, 1921—1 p.m.*

6. Department's January 31, 5 p.m.

You are instructed to inform the Government of Bolivia on February 9th, that the President has determined to recognize the Government of Bolivia as the Constitutional Government of that Republic. You may, at the same time, express to the Minister for Foreign Affairs the gratification caused this Government by the resumption of the friendly relations which have so long continued between the two Republics. The Department understands that recognition will be extended to Bolivia on the same day by the Governments of Argentina and Brazil.

COLBY

824.00/120 supp. : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, *February 4, 1921—1 p.m.*

18. Department's telegram dated January 31, 5 p.m.⁵ You are instructed to advise the Minister of Foreign Affairs that recognition of the Government of Bolivia will be extended by this Government through the American Minister at La Paz February 9. Please express the Department's earnest hope that the Government of Brazil will be disposed to recognize the Government of Bolivia on the same day.

COLBY

824.00/179a : Telegram

The Secretary of State to the Minister in Bolivia (Maginnis)

WASHINGTON, *February 5, 1921—6 p.m.*

7. The Department is informed by the Chilean Ambassador in Washington that the Chilean Charge d'Affaires at La Paz has been instructed to extend formal recognition to the Bolivian Government

⁵ See footnote 3, p. 282.

on February 9. The Department is further advised that he has been instructed to inform the Bolivian Government that recognition is extended by Chile upon the understanding that the Bolivian Government will abide by the promises given by the Junta on July 19, last, that the new Government would faithfully observe all treaty engagements entered into by the former Government.⁶

COLBY

824.00/179b : Telegram

The Secretary of State to the Minister in Uruguay (Jeffery)

WASHINGTON, 5 February, 1921—6 p.m.

3. We would like Minister Buero⁷ to be informed that this Government proposes recognizing the Bolivian Government as the Constitutional Government of that Republic and the opportunity thus afforded Uruguay to extend recognition at the same time, if that course accords with its own policy. Formal recognition will be extended by the American Minister at La Paz on February 9. It is our understanding that Argentina, Brazil and Chile will accord recognition on that date also.

COLBY

824.00/179 : Telegram

The Ambassador in Argentina (Stimson) to the Secretary of State

BUENOS AIRES, February 6, 1921—11 a.m.

[Received 4:45 p.m.]

31. Your 15, February 4th. Argentine Government today expressed its intention of recognizing Bolivian Government on the 9th instant. Under Secretary of State stated that Chilean, Brazilian and Japanese Governments have requested information as to the intentions of the Argentine Government in the premises and they have all been informed that the Argentine Government intends to follow the United States in recognizing the Bolivian Government on February 9th.

STIMSON

⁶ See the Minister's telegram no. 81 of July 19, 1920, *Foreign Relations*, 1920, vol. I, p. 374.

⁷ Juan Antonio Buero, Uruguayan Minister of Foreign Affairs.

824.00/178 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, *February 6, 1921—1 p.m.*

[Received 4:45 p.m.]

12. Department's February 4, 1 p.m. Brazilian Government will recognize the new Bolivian Government conjointly on February 9.

MORGAN

824.00/180 : Telegram

The Minister in Uruguay (Jeffery) to the Secretary of State

MONTEVIDEO, *February 9, 1921—4 p.m.*

[Received 11:50 p.m.]

6. Department's 3, February 5th, 5 [6] p.m. Foreign Office informs me Uruguayan Government had already resolved to recognize present Constitutional Government of Bolivia, and that it has instructed the Chargé d'Affaires appointed to La Paz to proceed immediately to his post. On his arrival notification of recognition will be extended through him.

JEFFERY

824.00/181 : Telegram

The Minister in Bolivia (Maginnis) to the Secretary of State

LA PAZ, *February 9, 1921—5 p.m.*

[Received February 10—10:40 a.m.]

17. Your February 4, 1 p.m. Recognition extended today at 3 p.m., by United States, Argentina, Chile and Brazil.

MAGINNIS

CANADA

CONTINUED DELAY IN INTERNATIONAL ARRANGEMENTS FOR THE REGULATION OF FISHERIES¹

Termination of Port Privileges Granted by the United States to Canadian Fishing Vessels—Withdrawal from the Consideration of the Senate of the Convention for the Protection of Salmon, Signed May 25, 1920

711.428/631

The Secretary of Commerce (Hoover) to the Secretary of State

WASHINGTON, *March 9, 1921.*

MY DEAR MR. SECRETARY: I enclose herewith a memorandum with regard to a fishing matter with Canada, which explains itself.

It appears that this department is acting entirely unofficially in allowing Canadian vessels certain privileges in the United States in return for certain privileges in Canada as a result of an emergency measure taken during the war.

The fishing community both on the Atlantic and Pacific sides is somewhat divided on the desirability of this measure, but as a matter of fact it is being carried on without any authority in law, apparently with the idea that some treaty negotiations are likely to be presented to the Senate bearing on the question.

I would be glad if you could at an early date let me know what the situation is as I do not feel that we have the right to continue this sort of action no matter how advantageous it may be to American fisheries.

Yours faithfully,

HERBERT HOOVER

[Enclosure—Memorandum]

The Commissioner of Navigation (Chamberlain) to the Secretary of Commerce (Hoover)

WASHINGTON, *March 9, 1921.*

FISHING VESSELS—RECIPROCAL PRIVILEGES

Representative Lufkin of the Gloucester district, will come in soon to see you about the war arrangement for reciprocal fishing privileges with Canada.

¹For previous correspondence concerning the regulation of fisheries, see *Foreign Relations*, 1920, vol. I, pp. 387 ff.

1. Vessels of the United States and no others are entitled to engage in the coasting trade and fisheries. (R.S. 4311).

2. To meet the conditions of the hard winter of 1917-18, Secretary Redfield on February 21, 1918, as a war measure instructed Collectors of Customs to admit Canadian and other allied vessels to our fisheries, and Canada acted reciprocally.

3. This order, which is contrary to law, still stands, though the conditions which prompted it no longer exist.

4. It has not been canceled, principally because a fisheries treaty was negotiated soon after with Canada on the reciprocal principle of the order. The fate of the treaty in effect would have determined the continuance of the order. For various reasons the treaty was not sent to the Senate.

5. Expediency may suggest, as do the Gloucester people, that nothing be done, as their fishing season on the Newfoundland banks soon begins and they think a tariff bill imposing a duty on fish will become law early in the summer. This, however, leaves the Secretary of Commerce still in a lawless attitude, the more untenable because the last Congress just before adjournment terminated by joint resolution approved March 4 [3], practically all war legislation, proclamations, power, etc.

6. The situation turns on the fisheries treaty; if that is not to be sent to the Senate, then the order of February 1918 ought to be canceled; if the treaty is to go to the Senate, pending the determination of its fate the Department might perhaps be justified in letting the order of 1918 stand a little longer.

7. You may wish to take this up with Secretary Hughes and tell Mr. Lufkin, so that if the conflicting Gloucester and Boston people want you to hear them, they can also arrange to have their say before the State Department, if Secretary Hughes desires.

E. T. CHAMBERLAIN

711.428/644

The Secretary of Commerce (Hoover) to the Secretary of State

99082-N

WASHINGTON, July 11, 1921.

SIR: Replying to your letter of the 9th instant,² enclosing copy of a note from the British Embassy dated July 2d,² I have the honor to enclose several copies of the Department's instructions of July 6

² Not printed.

issued to Collectors of Customs terminating on July 15 certain privileges in ports of the United States allowed to fishing vessels of nations associated with the United States.

Respectfully,

For the Secretary:

C. H. HUSTON

Assistant Secretary

[Enclosure]

Instructions of the Department of Commerce to Collectors of Customs

General Letter No. 230

WASHINGTON, July 6, 1921.

TO COLLECTORS OF CUSTOMS AND OTHERS CONCERNED:

The instructions of the Secretary of Commerce issued February 21, 1918 (General Letter No. 174), and supplementary instructions issued March 18, 1918, and March 25, 1918, by which, to promote the vigorous prosecution of the war and to make the utmost use jointly of all the resources of the nations then cooperating, certain privileges in ports of the United States were allowed to fishing vessels of nations associated with the United States are hereby canceled to take effect July 15, 1921, and on and after that date you will cease to extend such privileges. Please advise those concerned.

Respectfully,

HERBERT HOOVER

Secretary

711.428/665

The British Embassy to the Department of State

MEMORANDUM

On the 29th ultimo the Secretary of State drew the attention of His Majesty's Ambassador to the difficulty which had arisen in connection with the ratification of the Sockeye Salmon Treaty,³ the authorities of the State of Washington having objected strongly to the ratification of the Treaty by the United States Government, maintaining that the matters referred to in the Treaty came within the jurisdiction of the State of Washington and should be settled by direct negotiation with the authorities of the Province of British Columbia. Mr. Hughes therefore enquired whether some way could not be found to permit of a direct settlement between the authorities of the State of Washington and the Province of British Colum-

³ Note of June 29 not printed; for correspondence concerning signature of treaty of May 25, 1920, see *Foreign Relations*, 1920, vol. I, pp. 387 ff.

bia in the form of police regulations to be issued by the respective local authorities.

Sir Auckland Geddes at once communicated in this sense with the Government of Canada, who have now replied by confirming the statement contained in Sir Auckland Geddes' semi-official letter to the Secretary of State of June 23rd,⁴ to the effect that under the Canadian Constitution the Provincial Government has no jurisdiction whatever in connection with the regulation or administration of fishery questions. The Canadian Government therefore greatly regret that no such settlement as is proposed by the Secretary of State is possible. They point out that if the Treaty which was signed more than a year ago were to be ratified, the protection needed in order to reestablish the Fraser River system of salmon fisheries could be provided. Experience has moreover clearly demonstrated that such protection cannot be afforded otherwise than by joint efforts on both sides of the frontier. Until, therefore, the United States Government see their way to take final action in the matter, it seems clear that no further steps can be taken in the direction of more protective regulation of the fisheries by the Government of Canada.

WASHINGTON, *July 14, 1921.*

711.428/666

President Harding to the Secretary of State

WASHINGTON, *August 15, 1921.*

MY DEAR MR. SECRETARY: I have to acknowledge yours of August 15th⁴ in which you enclose to me copies of correspondence relating to the treaty between the United States and Great Britain for the Protection, Preservation and Propagation of the Salmon Fisheries in the Waters Contiguous to the United States and Canada and the Fraser River System, and agreeable to the recommendations which you make I am sending to the Senate the request for the return of the Convention to me.

Sincerely yours,

WARREN G. HARDING

711.428/650a

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *August 27, 1921.*

EXCELLENCY: Referring to previous correspondence regarding the so-called Sockeye Salmon Fishery Treaty which for sometime has been pending before the United States Senate, I have the honor to

⁴ Not printed.

inform you that it has been deemed appropriate to withdraw the treaty from the Senate for further consideration.

You are aware of the fact that considerable opposition has been made to this agreement. I have taken note of the information which the Embassy was good enough to furnish me in its memorandum of July 14, 1921, to the effect that the authorities of British Columbia have no jurisdiction in connection with the regulation or administration of the fisheries which it was intended should be protected by the treaty, and that, therefore, protection through direct cooperation between them and the authorities of the State of Washington which it appears that the latter had in contemplation would not be possible. However, since it seemed certain that the treaty in its present form could not receive the approval of the Senate and, therefore, could not be ratified, the only practicable course at this time appeared to be to withdraw the treaty.

Accept [etc.]

CHARLES E. HUGHES

711.428/652

The British Ambassador (Geddes) to the Secretary of State

No. 715

WASHINGTON, September 22, 1921.

SIR: With reference to your note of August 27th, respecting the Sockeye Salmon Fishery Treaty, I have the honour to inform you that in a further communication addressed to me on this matter, the Governor-General of Canada informs me that he has been asked to express the grave concern of the Government of the Dominion that any further delay in settling this important matter should have occurred.

Lord Byng of Vimy points out that in consequence of this delay the fishery is not receiving proper protection, and I should therefore be most grateful if you could see your way to inform me as to the nature of the modifications in this Treaty which are considered necessary.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

711.428/655

The British Ambassador (Geddes) to the Secretary of State

No. 741

WASHINGTON, October 3, 1921.

SIR: With reference to the note which you were so good as to address to me on June 30th last,⁵ informing me that the Secretary of Commerce intended to issue instructions to the Collectors of Customs

⁵ Not printed.

and other officials concerned to discontinue the privileges accorded to Canadian fishing vessels during the war period, I have the honour to inform you that I am desired by the Government of Canada to address representations in the following sense in this connection to the United States Government, in the hope that they be favourably entertained.

The Canadian Government represent that the conditions and circumstances which led to the granting of these privileges are set forth in the Report of the Canadian-American Fisheries Conference appointed in 1918 to consider a settlement of outstanding fishery questions between Canada and the United States, pp. 4-16.⁶ This report has been under the consideration of the two Governments since September, 1918. Following its submission, negotiations for a Treaty to settle once for all the long standing fishery disputes between the two countries were entered into, and in October, 1919, a draft Treaty was drawn up.⁷ Canada expressed her willingness to conclude this Treaty, and only awaited the fixing of a date by the United States Government for signing it. The ex-Secretary of State explained that the delay in fixing such date was due to consultations with some interested persons regarding certain provisions of the proposed Treaty. On the 20th September, 1920, he addressed a note to me⁸ stating that he would not fail to inform me of the results of the consideration that was being given to a slight amendment to the draft treaty, for which the Canadian Government had asked, and that he would advise me when the United States Government would be prepared to proceed with the signature.

Owing to the Presidential Election then pending, and the change in Government that resulted, the Canadian Government realised that final action on the Treaty would be delayed, but it was anticipated that a further communication on the subject would be received from the United States Government within a reasonable period. In these circumstances, they were surprised to learn that the privileges to Canadian fishing vessels visiting United States ports would be abruptly terminated.

The Canadian Government observe that when the reciprocal privileges were granted in 1918, it was, no doubt, contemplated by the Government of the United States, as well as by that of Canada, that the whole matter would be finally settled by treaty before the termination of the privileges by either country. As a matter of fact, the Canadian Order in Council of the 8th of March, 1918, which conferred the privileges on United States fishing vessels visiting Canadian ports, ceased to be legally effective when the War

⁶ *Foreign Relations*, 1918, pp. 441 ff.

⁷ *Ibid.*, 1919, vol. I, p. 258.

⁸ *Ibid.*, 1920, vol. I, p. 405.

Measures Act terminated last year, as it was adopted under the authority of that Act. The Canadian Government, however, felt that it would be undesirable to reopen the more than century old fishery disputes, pending the outcome of negotiations for a treaty designed finally to settle them. Hence, these privileges have since been continued to United States fishing vessels without any statutory authority.

The Canadian Government are still of opinion that the best interest of both countries would be served by the proposed Treaty, and they are therefore prepared to conclude it and also to extend the scope of the negotiations.

The unexpected withdrawal by the United States Government of these privileges in the middle of the main fishing season, has resulted in serious inconvenience to certain Canadian fishing vessels. The Canadian Government therefore trust that the United States Government will see its way to restore these privileges, pending the outcome of negotiations for a Treaty.

Should the United States Government not see fit to continue the negotiations for a Treaty or Treaties, or restore the temporary privileges, the Canadian Government will have to consider the withdrawal of all privileges to United States fishing vessels, thus bringing again into operation the provisions of Article 1 of the Treaty of 1818, much though they would regret to revive the old causes of friction that such action would entail.

The Canadian Government would be glad to be favoured with an expression of the views of the United States Government on this whole matter at an early date.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

711.428/656

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *October 17, 1921.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of September 22, 1921, respecting the so-called Sockeye Salmon Fishery Treaty. You state that the Governor General of Canada has informed you that he has been asked to express the grave concern of the government of the Dominion that any further delay in settling this important matter should have occurred, and you request to be informed as to the nature of the modifications in this treaty which are considered necessary.

As stated in my note of August 27, since it seemed certain that the treaty in its present form could not receive the approval of the

Senate and therefore could not be ratified, the only practicable course appeared to be to withdraw the treaty. Very strong opposition to this agreement exists in the West, particularly on the part of authorities of the State of Washington. In the existing situation I do not feel that I am in a position to suggest any modifications, the adoption of which would make possible the ratification of the treaty.

Accept [etc.]

CHARLES E. HUGHES

711.428/672

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, November 15, 1921.

EXCELLENCY: I have the honor to refer to your note No. 741 of October 3, 1921 relative to the discontinuance of the privileges accorded during the War period to Canadian fishing vessels in United States ports, and to inform you that a communication has now been received from the appropriate authority of this Government dealing with the matter. Section 4311 of the Revised Statutes of the United States provides as follows:

“Vessels of twenty tons and upward, enrolled in pursuance of this Title (R.S. 4311-4390),⁹ and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by this Title, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries.”

Since the joint resolution of Congress, approved March 3, 1921, terminated practically all War legislation, proclamations and orders issued to aid in the prosecution of the War, it is believed that no attempt should be made to exercise any of the unusual powers exerted during the War. As a result of this Act, R.S. 4311 is again in full effect and the order of July 6th, 1921, cancelling the previous circular No. 174 of February 21, 1918 to the collectors of customs and others, was made as a matter of course merely to clear the record and to prevent confusion in the enforcement of the statute. The order of July 6, 1921 was designed to remove the manifest conflict between the provisions of the statute and the provisions of the administrative order, and since the language of the statute is clear and explicit, administrative officers of this Government are of the opinion that they do not have power at this time to suspend its operation.

As regards the negotiation of a treaty or treaties dealing with the matter, I desire to state that the question of the continuance of the

⁹ Citation in parentheses added by the Secretary of State.

negotiations on this subject is receiving careful consideration and I shall not fail to communicate with you again regarding it as soon as possible.

Accept [etc.]

For the Secretary of State:

HENRY P. FLETCHER

SUPPLEMENTARY CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN, OCTOBER 21, 1921, PROVIDING FOR THE ACCESSION OF CANADA TO THE PROPERTY CONVENTION OF MARCH 2, 1899¹⁰

811.5241/62

The Acting Secretary of State to the British Chargé (Lindsay)

WASHINGTON, *March 12, 1920.*

SIR: I have the honor to refer to this Department's note of even date¹¹ relative to the proposed extension to the Hawaiian Islands of the provisions of the Convention concluded on March 2, 1899, between the United States and Great Britain with regard to the tenure and disposition of real and personal property.

I have the honor to state that I have received numerous communications asking whether Canada had acceded to the Convention of March 2, 1899. As you know, no notice was given on behalf of the Canadian Government, indicating an intention to adhere to this Convention either as provided for in Article IV thereof or under the provisions of the supplementary Convention concluded on January 13, 1902,¹² between the United States and Great Britain.

I shall be pleased if you will inform me whether your Government is disposed to take up this matter with the Canadian Government with a view to the conclusion of a convention with this Government whereby the Convention concluded on March 2, 1899 between the United States and Great Britain with regard to the tenure and disposition of real and personal property will be extended and made applicable to Canada.

Accept [etc.]

FRANK L. POLK

811.5241/62

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *August 16, 1920.*

EXCELLENCY: I have the honor to refer to my note of March 12, 1920, in which I requested information as to whether your Government is disposed to take up the matter of negotiating a convention

¹⁰ For text of convention of 1899, see Malloy, *Treaties*, vol. I, p. 774.

¹¹ Not printed.

¹² Malloy, *Treaties*, vol. I, p. 776.

with the Government of the United States whereby the convention concluded on March 2, 1899, between the United States and Great Britain with regard to the tenure and disposition of real and personal property will be extended and made applicable to Canada.

I shall be grateful if you will inform me whether any decision has been reached by your Government regarding the matter.

Accept [etc.]

BAINBRIDGE COLBY

811.5241/73

The British Ambassador (Geddes) to the Secretary of State

No. 174

WASHINGTON, *March 1, 1921.*

SIR: With reference to the note which you were so good as to address to me under date August 16th, 1920, I have the honour to inform you at the request of the Government of the Dominion of Canada, that that Government are now desirous of adhering to the Convention concluded on March 2nd, 1899, between Great Britain and the United States with regard to the tenure and disposition of personal property.

I should therefore be grateful if the necessary steps could be taken to prepare for signature a supplementary Convention which will give effect to this wish on the part of the Canadian Government.

I have [etc.]

A. C. GEDDES

811.5241/73

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *April 28, 1921.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 1, 1920 [1921], in which you informed this Government that the Government of the Dominion of Canada desires to adhere to the Convention with regard to the tenure and disposition of real and personal property concluded by Great Britain and the United States on March 2, 1899, and in which you suggested that the necessary steps be taken to prepare for signature a supplementary convention which will give effect to the wish of the Canadian Government.

I have the honor to enclose for the consideration of your Government a draft of a supplementary convention¹³ which provides for the adherence of the Dominion of Canada to the Convention of 1899. The effect of such a convention would be to give to the Dominion of Canada the same right to adhere to the Convention of 1899 as was

¹³ Not printed.

accorded by that treaty to all British colonies and possessions. The draft convention fixes a period of one year from the date of the exchange of ratifications within which adherence may be given by Canada.

I should be grateful if your Government would consider the enclosed draft and inform me of their views with respect thereto. A convention could doubtless be concluded which by its terms would effect the adherence of the Dominion of Canada to the Convention of 1899 at once on the exchange of ratifications of the supplementary convention rather than by a subsequent act of adherence. If that procedure is deemed desirable by your Government, I should be glad if they would submit a draft of such a convention.

Accept [etc.]

CHARLES E. HUGHES

Treaty Series No. 663

*Supplementary Convention between the United States and Great Britain, Providing for the Accession of the Dominion of Canada to the Real and Personal Property Convention of March 2, 1899; Signed at Washington, October 21, 1921*¹⁴

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of permitting the Dominion of Canada to accede to the Convention concerning the tenure and disposition of real and personal property, signed at Washington on March 2, 1899, have agreed to conclude a supplementary Convention for that purpose, and have named as their plenipotentiaries:

The President of the United States of America, the Honorable Charles E. Hughes, Secretary of State of the United States, and

His Britannic Majesty, The Right Honorable Sir Auckland Geddes, K.C.B., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who having communicated to each other their Full Powers, which were found to be in due and proper form, have agreed upon the following Articles:

ARTICLE I

The provisions of the Convention of March 2nd, 1899, shall become applicable to the Dominion of Canada upon ratification of the present Convention in the manner provided by Article II hereof.

¹⁴ Ratification advised by the Senate, Nov. 8, 1921; ratified by the President, Nov. 12, 1921; ratified by Great Britain, May 1, 1922; ratifications exchanged at Washington, June 17, 1922; proclaimed, June 19, 1922.

ARTICLE II

The present Convention shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by His Britannic Majesty. The ratifications shall be exchanged in Washington as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

The Convention of March 2, 1899, may be terminated with respect to the Dominion of Canada on twelve months' notice to that effect given at any time by either the United States or His Britannic Majesty.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Convention and have hereunto affixed their seals.

Done in duplicate at Washington, this twenty-first day of October, 1921.

[SEAL]	CHARLES E. HUGHES
[SEAL]	A. C. GEDDES

**EFFORTS TO SECURE THE REMOVAL OF RESTRICTIONS UPON
THE EXPORTATION OF PULPWOOD FROM CANADA**

611.492/882 : Telegram

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

[Paraphrase]

WASHINGTON, *August 16, 1921, 5 p.m.*

476. The exportation of pulpwood taken from Canadian Crown lands is at present restricted. The President has just approved a resolution of Congress requesting him to appoint a commission of five members to enter into negotiations with the Canadian Government or with the governments of the several Provinces to bring about the cancelation of the restrictions upon the exportation of printing paper and pulpwood.

Please make immediate inquiry as to whether it will be agreeable to the British Government to have the proposed commission enter into direct negotiations with the Canadian or Provincial Governments.

HUGHES

611.429/905 : Telegram

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

[Paraphrase]

LONDON, *October 12, 1921—noon.*

[Received October 12—10:08 a.m.]

815. My 768 of September 22, noon, and previous telegrams,¹⁵ I have just received a note from the Foreign Office stating that they

¹⁵ Not printed.

prefer that the matter be handled direct with the Dominion Government through the British Embassy at Washington.

I am mailing copies of the note ^{15a} in the next pouch.

HARVEY

611.429/905

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, October 22, 1921.

EXCELLENCY: I have the honor to bring to your attention Senate Joint Resolution No. 36, of the 67th Congress, authorizing the appointment of a commission to confer with the Dominion Government of Canada, or the provincial governments thereof, as to certain restrictive orders in council of the said Provinces relative to the exportation of pulp wood and paper therefrom to the United States.

The text of this resolution is as follows:

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to appoint a commission of five persons and, by appropriate authority, to confer on this commission the power, on behalf of the administration and the Congress, to negotiate with said Dominion Government, also with the provincial governments thereof, in respect to the cancellation of said restrictive orders in council, and as well any other restrictions on the exportation of pulp wood and newsprint and other printing paper composed of mechanical and chemical products of pulp and pulp wood, from the Dominion of Canada to the United States.

“SEC. 2. That in the event the cancellation of said restrictive orders in council can not be agreed to by mutual arrangement of the Governments of the United States of America and the Dominion of Canada, that the commission shall investigate, consider, and report to the President, on or before December 1, 1921, what action in its opinion should be taken by the Congress that will aid in securing the cancellation of the restrictive orders in council, so that they may not continue to militate against the interests of the people of the United States.

SEC. 3. That for the necessary expenses of said commission the sum of \$10,000 be, and it is hereby, appropriated from the moneys in the Treasury of the United States not otherwise appropriated: Provided, however, That the members of the commission shall serve without compensation.

“Approved, August 15, 1921.”

I have the honor to request that you ascertain from the Canadian Government whether direct negotiations of the nature contemplated by the Joint Resolution will be agreeable to that Government, and,

^{15a} Not printed.

if so, whether the Canadian Government will indicate a place and time at which the negotiations may commence. In this connection, I wish to draw your attention to the stipulation in the Joint Resolution to the effect that the American Commissioners are to submit a report of the negotiations to the Congress on or before December 1, 1921. In view of the short time remaining, I shall greatly appreciate the expedition of a reply from the Canadian Government.

Accept [etc.]

CHARLES E. HUGHES

611.429/915

The British Ambassador (Geddes) to the Secretary of State

No. 848

WASHINGTON, November 10, 1921.

SIR: In the note which you were good enough to address to me on the 22nd of October last you quoted, for my information, the text of Senate Joint Resolution No. 36 of the 67th Congress which was approved on August 15th, 1921 and authorized the appointment of a Commission of five persons to negotiate with the Government of the Dominion of Canada and also with the Provincial Governments thereof in respect to the regulations now in force in the Provinces of Ontario, Quebec and New Brunswick governing the use in those Provinces of pulp wood cut from Canadian Crown lands. You requested me to ascertain whether direct negotiations of the nature contemplated by the Joint Resolution would be agreeable to the Dominion Government, and, if so, whether that Government would indicate a place and a time at which the negotiations might commence.

It will be recalled that a Joint Resolution similar in wording and effect was introduced into the United States Congress early in 1920¹⁶ and, in my Note No. 352 of June 9, 1920¹⁷ I had the honour to transmit to your predecessor a Memorandum prepared by the Canadian Government setting forth their own position and that of the Provincial Governments on the question with which the Resolution dealt. I venture to enclose a further copy of that Memorandum for your perusal and to acquaint you that the Dominion Government still adhere to the views therein expressed.

The regulations to which the Resolution relates do not, in fact, involve any discrimination against the United States as compared either with all other foreign countries, with the other parts of the British Empire, or even with the other Provinces of the Dominion. Indeed, the regulations cannot be accurately described as restrictions

¹⁶ Introduced on Feb. 2, 1920; S.J. Res. 152, *Congressional Record*, vol. 59, p. 2341.

¹⁷ Not printed.

upon the export of pulpwood. All questions relating to export and import trade are within the exclusive jurisdiction of the Government of the Dominion. Moreover, that Government being responsible for the conduct of the external relations of the Dominion, could not consent to a foreign mission treating with the Provinces. The Government of the United States will readily appreciate the position of the Canadian Government in this matter in view of their own analogous relation to the several States of the American Union.

So far as negotiation with the Dominion Government itself is concerned, the Resolution raises a separate point of procedure. The Canadian Government would consider it inappropriate that such a matter as that with which the Resolution deals should be approached through the medium of a special commission, but if the Government of the United States desires to make any special representations respecting the Provincial regulations concerning the use of pulpwood cut on the Crown lands, His Majesty's Canadian Government will be glad to give the most careful consideration to any communication you may desire to address to me on the subject.

I have [etc.]

A. C. GEDDES

[Enclosure]

Memorandum by the Canadian Department of External Affairs

[OTTAWA,] May 27, 1920.

Memorandum on the Underwood Resolution respecting the use of the pulp wood on the Crown Lands of the Province of Ontario, Quebec and New Brunswick.

1. The Resolution relates to action taken by the Governments of the Provinces of Ontario, Quebec and New Brunswick, within their proper sphere of authority. However, as the Dominion Government is alone responsible for Canadian foreign relations and for their conduct, it is bound to examine the matter with the view of determining whether there are any representations which it would be justified in making to the Provinces.

2. The action complained of is found in the requirement of the provincial laws that pulp wood cut on the licensed Crown lands of the Provinces—that is to say, on the public domain—shall be manufactured in Canada into pulp. These laws have stood, in the case of Ontario, for more than 20 years, in Quebec and New Brunswick, for 10 years. The Resolution does not allege, nor is there, either **in form or in effect**, any discrimination against the United States as compared with other foreign countries. All countries stand alike in respect of the operation of the laws, including even the other parts of the British Empire. Nor is there any discrimination against

American citizens or capital in respect of the issuance of licenses to exploit the Crown lands; although it is not unusual to limit the benefits of public lands to citizens of the country, as in the case of the homestead laws of the United States and Canada, (Cf. also United States "Act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain", Public. No. 146, 66th. Congress¹⁸); or to prohibit their exploitation altogether, as for example, in the case of the Adirondack Forest Reserve of the State of New York. Timber licenses are issued as freely to Americans and other aliens as to British subjects, as may be gathered from the estimate made by reliable financial authorities that of the \$260,000,000 capital employed in the Canadian pulp and paper industry from three-fifths to three-fourths, or approximately \$180,000,000 is American.

Nor do the provincial laws constitute in any way a violation of the contractual rights or an impairment of the investment of licensees. This has been expressly held by the Canadian courts, and the American interests who have urged the Resolution admit that they themselves have never contested the matter in the Courts. (See *Smylie v. the Queen*, 27 Ontario Appeal Reports 172—reprinted in Report of Hearings before Committee of Foreign Affairs of House of Representatives on Underwood Resolution, S.J. 152, pages 168-76.)

3. In this light the Resolution becomes nothing more than a demand to negotiate concerning the manner in which the use of the property of the Crown should be regulated. It is conceived that this is hardly a fit subject of negotiation with a foreign country, and that no Government could consent to such an impairment of its sovereignty.

4. It would be enough to rest the matter there. However, there has been so much misunderstanding and misconception in current public discussions of the subject that an indication of the underlying policy of the provincial laws, and of other factors bearing on the present critical condition of the pulp and paper market in North America, may be helpful in the interest of good feeling between the peoples of the two countries, which is perhaps in some danger of being disturbed.

5. It is apparently the principal assumption of those urging the Underwood Resolution that the pulp wood resources of Eastern Canada are inexhaustible, and that the Provinces are acting in an arbitrary manner in restricting their use so far as the Crown lands are concerned. In support of this assumption many statistics of impressive appearance have been arrayed; but unfortunately the

¹⁸ Act of Feb. 25, 1920; 41 Stat. 437.

more the position is analysed by experts the less encouraging it becomes. No thorough survey has yet been made; but preliminary estimates, based on the best available information, have recently been undertaken by the Commission of Conservation, an organ of the Dominion Government which has gathered and summarized the most authoritative opinion in Canada on the subject. The Commission estimates that at the present rate of consumption, and leaving aside the considerable expansions of Canadian pulp and paper plants now under construction or projected, Ontario may have 67 years' supply of presently accessible and available pulp wood suitable for newsprint, Quebec 52 years and New Brunswick 21 years; the Commission will not take the responsibility of putting it higher and indeed is inclined to the view that this estimate is over sanguine. Beyond these periods the industry can only depend on the annual growth; and this in turn depends entirely upon the rigid practice of scientific forestry—a factor which cannot be relied on in the present discussion, since the application of the science of forestry is unfortunately only in its infancy in Canada. Owing to the peculiar nature of the pulp industry there should be, according to prudent opinion, a reasonably assured 100 years' or perpetual supply under control (See statement of United States Secretary of Agriculture, cited below). The manufacture of paper from wood pulp on a large scale has developed only within the past 50 years; yet such have been the demands that this comparatively short period has seen the pulp resources of the Eastern States threatened with exhaustion, though they were far greater than those of Eastern Canada. So far therefore from being inexhaustible, the present state of the supplies of the raw material in Eastern Canada should be a matter of serious concern to all paper consumers. That this position is well recognised by those in the United States whose opinion is entitled to the most respect may be seen from a statement by the Secretary of Agriculture recently published (See Senate Document No. 234, 66th. Congress, 2nd. Session). Unquestionably any relaxation of the provincial timber laws would result in a greater inroad on the remaining supplies; indeed that is the sole object of the Resolution.

6. The conservation aspect of these laws is therefore of even greater national importance than their trade aspect. A more conservative age, a civilization less reckless than ours and more prone to listen to the disinterested advice of science, might well pause altogether; a decree of even stricter prohibition pending a stock-taking and the formulation of more reliable and prudent forestry methods, might well seem the true course of action. Government however in modern conditions, confronted with the temperamental forces of its constituency, must frequently pursue less ideal, more indirect, poli-

cies; and in many instances the most it can do is so to shape its course and laws that a balancing of psychological factors may produce in some degree the desired result where direct methods would be infeasible or inexpedient.

The provincial regulations are a case in point. It may reasonably be assumed that the Provinces, confronted with the insistent demands of the industry, but bound also to have prudent regard for the future state of their resources, have adopted this indirect device as the most expedient method of reconciling the conflicting demands. It does encourage industry and trade, but it does so in such a way as to promote sounder methods of conservation.

For what is the alternative? A policy which permitted unrestricted use of the raw material would doubtless result in great activity and some advantage to immediate revenues. But it would offer to such an industry encouragement of a nature for which next to nothing can be said from the viewpoint of sound economics or a prudent conservation of resources. The timber operator carrying on only the business of exploiting the raw wood has not been on this continent, relatively speaking, a great friend of conservation. His mill, his equipment and his labour, are mobile; his investment relative to the manufacturer's is small. There have doubtless been far-sighted exceptions, but only too often he has found his chief economic advantage to lie in stripping the region of his operations for the moment and in then moving on to other fields. Unquestionably he has not the same economic incentive to support and practice sound methods of conservation as the operator of a manufacturing industry more elaborately and permanently placed.

On the other hand the pulp and paper manufacturer established in the midst of the region of his raw material is in a far different case. His investment is far greater; his plant is necessarily fixed in space—a pulp or paper mill cannot be loaded on a train and moved on to fresh fields; and his labour problem is different. A permanent supply of raw material readily accessible to his plant is one of his great desires; his incentive to pursue scientific forestry methods is immediate and direct; and he really perceives that it is to his interest to support the efforts of government in the same direction.

Again the importance of maintaining such a valuable industry in the country, of preserving its contribution to the national balance sheet, as well as the opportunities it affords for the employment of the population, enables government itself to exercise extensive forestry development and supervision on a scale otherwise impossible. Public opinion will sanction public expenditures and taxes for the sake of an industry of permanent value; it would not do so for an

industry involving not only a relatively small financial benefit and employment of the population but also the possible destruction of a great natural asset.

The conservation aspect is therefore inseparable from the policy of these timber laws. From this point of view indeed it would be still sounder policy to require that the manufacture of the raw material should be carried a stage further, that is, to the manufacture of the finished paper itself.

7. In this connection it is proper to point out how great a drain is being made by the United States upon the Canadian reserves of raw material in spite of the existing laws and without furthering the wise object they have in view. In respect of the pulp wood on privately-owned lands there has been as yet no law to induce or require its manufacture in Canada. Shipments of raw pulp wood from these lands to the United States have for many years averaged about 1,000,000 cords annually, or 35% to 40% of the total Canadian cut, and 100% of Canadian exports of pulp wood to all countries. In 1918 the shipments had increased to over 1,300,000 cords. In that year 20% of the pulpwood cut of Ontario, 45% of that of Quebec, and 70% of that of New Brunswick was shipped in the raw form for manufacture in the pulp and paper plants of the United States. In 1919 the United States exported to foreign countries 110,000 tons of newsprint, an increase of 45% over their export tonnage of 1916. It may be added that during all the recent critical period in the paper market other parts of the British Empire have experienced the greatest difficulties, and have been anxious to secure supplies from Canada.

In this light it is impossible to appreciate the suggestion that the Provinces have acted in an arbitrary manner.

8. It has been urged that the provincial laws work to the detriment of the newspapers and other publishing interests of the United States, as being restrictive of the supply and as enhancing the price of newsprint paper. This impression can only be the result of misunderstanding. There is no restriction whatever on the flow of newsprint from Canada, nor of pulp. In 1917 about 80% of the Canadian production of newsprint went to the United States, as well as 32% of the production of pulp, this last representing 92% of the total exportation of Canadian pulp to all countries. So far as prices are concerned, the Canadian paper mills produce at considerably lower costs than the American, as the United States Federal Trade Commission recently reported; and this must obviously have a great tendency in the long run to keep prices down in the United States as well as in Canada. Again it is clearly more economical, other conditions being equal—or better than equal, as

they are here—to carry on the process of manufacture near the source of supply of the raw material. An examination of freight tariffs and other transportation charges shows that it is cheaper to ship pulp than the equivalent in wood; and of course the advantage is still greater in the case of the finished paper. Nor can there reasonably be apprehensions of a monopoly of adverse effect. The total raw material of the United States, taking account of the West and Alaska, is several times greater than that of Canada. Moreover history has not shown Canada to be a fertile soil for monopolies, and public opinion is still quite as alert there as elsewhere.

9. As for the effect on prices of an additional exploitation of the raw pulp wood of the Canadian public forests, even if it were possible to incur the almost certain risk of endangering their integrity, it seems clear that the addition would at the utmost be so unimportant relatively to the present and prospective enormous demands for newsprint paper in the United States that it could have no real effect. It could have no immediate effect; for every paper mill in the United States as well as in Canada is working even beyond the normal capacity of its machines. It could only have an adverse effect in the future.

The causes of the present difficult conditions in the paper market are to be found elsewhere. The Secretary of Agriculture of the United States, in the statement already cited, attributes the position to more fundamental causes—to the over-centralization of the paper industry in the Eastern States and the under-development in the West, and to the rapidly increasing demands for newsprint paper during the past 20 years, accentuated during the past year or two by the abnormal increase in advertising. In 40 years the consumption in the United States has increased by more than ten times. Since 1899 it has increased almost regularly at the rate of 10% a year, or approximately 200% over the whole period; while during the same time the population has increased only 70%. Newspaper advertising in the United States, according to the figures given by the publishers at the Washington hearings, increased in volume during 1919 by more than 40% over the year 1918, and in the first three months of 1920 by more than 40% again over the rate of 1919. It is this demand that has affected prices.

10. Conceivably a further inroad on the Crown land raw timber, beyond the increasing consumption of the Canadian pulp and paper plants, might afford some temporary relief to a few plants in the Eastern States; but no impartial expert believes it would be other than a temporary expedient, and all agree that it would simply accelerate the exhaustion of the Canadian supply. On the other hand, as indicated in the preceding paragraph, it is impossible to believe that it could afford even temporary relief to the publishing

interests, having regard to the great and increasing demands of the market; while in the long run it would certainly prejudice their position by threatening completely the chief remaining source of supply in the Eastern part of North America.

American Forestry, the official organ of the American Forestry Association, in its issue for February, 1920, has the following:—

“The Forest Service points out, however, that whether paper interests rely upon Canada, or upon increased use of our western resources, in either case these are temporary expedients. In the long run the country must solve the paper problem on the basis of a *permanent* wood supply. To this end it is urged that mill waste be utilized for paper making and that the forests of this country be regenerated and administered on a more productive basis.”

11. It is not out of place here to compare the rate of consumption of newsprint in Canada and the United States. Reliable estimates disclose that the United States is using about 40% more newsprint per capita than Canada. Illustrative of this is the statement recently published by a Chicago newspaper that in its Sunday edition alone it uses as much newsprint as all the newspapers of Canada combined use in two and a half days. It has also been estimated that the paper consumption of the papers of Chicago, with a population of approximately 2,500,000, is almost twice the total consumption of all the daily newspapers of Canada.

Yet Canadian newspapers have not been without difficulties as great as those with which American newspapers have had to contend in the newsprint paper market. Many old and important Canadian newspapers have been obliged to suspend publication or merge with others. There has been since the beginning of the war a mortality of 25% and the high prices due to abnormal demands elsewhere have been one of the main causes. It would be impossible for any Government to ignore such considerations in taking account of the possibilities of domestic supply.

12. The preamble to the Underwood Resolution indicates that the appropriate authorities in the United States are now formulating a comprehensive national forest conservation plan. The fundamental truth is that such a plan is as much needed in Canada as elsewhere. The United States Secretary of Agriculture has pointed out that “the use of wood pulp on a large scale for paper making is comparatively recent. Practically the entire development in the United States and elsewhere has taken place within the last fifty years.” Yet that short development has seen the supplies of the Eastern States, originally far greater than those of Eastern Canada, brought to the verge of exhaustion. This should be enough to give warning to a country later in the field that has no comprehensive

knowledge of its own resources; for no thorough survey has yet been made of the Canadian forests. But the most authoritative estimates and opinion are not reassuring. Scientific forestry in Canada is unfortunately only in its infancy. Ideal methods may be hoped for, and efforts are being made but they move slowly. Meanwhile regulations such as the Provinces have adopted do have a very important influence in promoting such methods; though it seems undoubted that more ideal methods would impose a still greater restriction on the supply of raw material from these forests. The regulations at least serve as some check on the exhaustion pending the time when a thorough stock-taking may be had.

The Underwood Resolution contemplates a stock-taking in the United States; but in the light of what has been said its real effect seems to be that pending that survey it would be proper to encourage the present increasing and disproportionate consumption of paper in the United States, and at the same time attempt to stay the exhaustion of the American forests, all at the expense of the Canadian forests, and in especial at the expense of the Canadian public forests. To this summary it need only be added that according to the most reliable estimates available the total forest resources of the United States are from four to five times as great as those of Canada.

The position is surely of enough importance to both countries to warrant some more convincing proposal. The position as it concerns North America is broadly this. There were great resources in both countries—in the East and in the West. The Western supplies in both are largely still intact. The Eastern reserves in the United States are seriously depleted and need replenishment. The Eastern Canadian supply has not reached that stage, but there is good ground for apprehension. Neither country can look for any considerable supplies from Europe, some of whose great forests are already overcut. The conclusion seems obvious that in the interests of both, the larger Eastern supply should be maintained as far as possible and that any law designed to promote its conservation should be welcomed. The long years that are required for the production of a forest crop render forest management peculiarly a proper sphere of Government activity and supervision. Fortunately a large part of the Canadian supply remains in direct Government ownership.

13. The conclusion in short is that the Commission contemplated by the Underwood Resolution could not be expected to be successful in its object—primarily because the manner in which the use of the public property of the Crown is regulated is not itself a suitable matter for negotiation with another State, and also because on every economic principle the object is unwise and unsound. The

administration in office in Ottawa in 1911 prior to the present one found itself unable to interfere with the Provinces in this matter; the reasons for adhering to this decision have become even stronger in the meantime.

The appointment of such a Commission would, therefore, be regrettable in so far as its non-success should disturb the present good feeling between the people of Canada and the United States.

14. It may be hoped that there will be no need for extended discussion of the second section of the Underwood Resolution. The language of the Resolution is unusual in public measures relating to dealings with a friendly country; but the suggestion of a threat which it is impossible to avoid, would in the circumstances of the present case be quite out of place and would offer a serious affront without cause. If it is contemplated that some economic action might be taken, in respect of the public lands of the United States or otherwise, affecting all other countries in form and effect equally with Canada, that would be a domestic matter to which no exception could be taken. But action affecting Canada alone either in form or effect would be clear discrimination without any justification whatever; for the Canadian measures here in question do not in any way discriminate against the United States. The suggestion is deplorable, and it is to be hoped for this reason as well that the Resolution will not become a formal public act.

15. So far as they are designed to encourage Canadian trade the measures in question do not differ in principle from protective laws in force in many countries throughout the world. These take many forms. There may be an export duty to encourage the manufacture of raw iron ore within the country, as in Sweden. There may be subsidies for similar objects. There may be outright prohibitions, as in the case of shipping laws. There may be State intervention in a particular trade, as in Brazil, with respect to coffee. The form chosen may be like that recently adopted in South Africa in respect of raw diamonds; the law now requires them to be cut there before export. Or an import duty may be so framed as to encourage imports of raw materials and develop the production of the finished product in the country. Thus in the timber and timber products schedules of the United States tariff of 1911¹⁹ the scale of duties increases in proportion to the degree of completeness of the process of manufacture.

16. It is as well, in the interest of clear thinking, to correct an inaccuracy of terminology that has gained much currency in recent public discussions. The Provincial timber legislation is constantly spoken of as being an "embargo". It is not an embargo. Under the

¹⁹An Act To promote reciprocal trade relations with the Dominion of Canada, and for other purposes; 37 Stat. 4.

Canadian federal system the Provinces have no jurisdiction over exports; nor did they in this case purport to exercise any such jurisdiction. The legislation nowhere mentions exportations. Rather the Provinces in licensing the use of their own property simply laid conditions upon its use—among others, the condition that one stage at least in the manufacturing process for which the property was intended should be carried on in Canada; and they provided penalties, including the cancellation of the license, to prevent violations of the conditions.

611.429/919

President Harding to the Under Secretary of State (Fletcher)

WASHINGTON, *November 28, 1921.*

MY DEAR SECRETARY FLETCHER: This is a very tardy acknowledgment of yours of November 16th²⁰ relating to the proposed commission to negotiate with the Canadian Government in the matter of pulpwood export from that country to the United States. Inasmuch as we can allege no discrimination against the United States apparently there is no ground for insisting upon a conference between commissions representing the United States and the government of Canada. I doubt very much if there is anything further to do concerning the matter. However, I have advised Senator Underwood, author of the resolution, concerning the situation, and if he has any further suggestion to make I shall be glad to bring it to the attention of the department.

Very truly yours,

WARREN G. HARDING

²⁰ Not printed.

CHILE
THE TACNA-ARICA QUESTION

(See pages 237 ff.)

CHINA

INSTABILITY OF THE CHINESE GOVERNMENT AT PEKING

Decline in the Authority of the Government—Intervention of Chang Tso-lin at Peking—The Cabinet Crisis in December

893.00/3800 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, *March 25, 1921—10 a.m.*

[Received March 25—2:09 a.m.]

129. Monarchical agitation increasing daily, meeting being held Mukden of adherents friends Chang Tso-lin¹ to discuss matter.

CRANE

893.00/3815 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, *April 6, 1921—11 a.m.*

[Received April 6—7:45 a.m.]

144. Legation's 129, March 25, 10 a.m. Monarchical restoration crisis has apparently passed its peak due to wide-spread publicity and adverse criticism as a result of which Chang Tso-lin has seemingly abandoned his intention of visiting Peking and forcing through his plans. He has issued public denial and Presidential mandate now issued derides possibility of restoration.

CRANE

893.00/3978 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, *July 24, 1921—10 a.m.*

[Received July 24—1:28 a.m.]

254. From Peking:

“July 23rd, 4 p.m. Expected storm against Peking is breaking. Following upon series of recent defeats Kwangsi forces at hands Kwangtung, Hunan is now moving troops against Wuchang. Szechuan and other wavering provinces will probably join in attack

¹ Inspector General of the Three Eastern Provinces.

on Peking unless Hunan is decisively defeated in which event Wu Pei-fu² in Honan holds keys to situation. Allegiance of all Yangtze Provinces very doubtful. Premier tendered his resignation 21st; not yet accepted. Repeat to Department as Legation's 271."

BELL

893.00/4020 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, September 3, 1921—11 a.m.

[Received September 3—9:27 a.m.]

310. My 291, August 19th, 1 p.m.³ Wu Pei-fu successes continue, Yochow captured, Changsha threatened. Wu reported planning national convention independent of Peking, Canton. Usually reliable source claims Wu financed by Tsao Kun⁴ not Peking government.

RUDDOCK

893.00/4153

The Minister in China (Schurman) to the Secretary of State

No. 128

PEKING, November 1, 1921.

[Received December 7.]

SIR: I have the honor to report that for some time past there have appeared in the Peking Chinese press and in the Manchurian press articles to the effect that Chang Tso-lin, Inspecting Commissioner of the three Manchurian Provinces, is organizing a general foreign office which will handle the foreign affairs of the Provinces of Kirin, Heilungchiang and Fengtien and the three special Administrative Districts of Jehol, Chahar and Suiyuan. This Bureau of Foreign Affairs will act independently of the Peking Government. There is no confirmation of this report from official circles, and in fact the Consul General at Mukden reporting under date of October 11, 1921, stated that owing to opposition from the military governors of Kirin and Heilungchiang, the idea had been abandoned. However, it is perhaps significant to note that the posts of Tu-tung of the Special Administrative Districts of Chahar and Jehol are both occupied by Chang Tso-lin's men, and an attempt is at present being made to get rid of the present Tu-tung of Suiyuan, Ma Fu-hsiang, and to replace him by one of Chang Tso-lin's division commanders. If this is accomplished, Chang Tso-lin will control the Administra-

² Vice Inspector General of Chihli, Shantung, and Honan.

³ Not printed.

⁴ Inspector General of Chihli, Shantung, and Honan.

tion not only of the three Manchurian Provinces but of all the territory outside the Great Wall from Manchuria as far west as Kansu. . . .

I have [etc.]

JACOB GOULD SCHURMAN

893.00/4148 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 3, 1921—5 p.m.

[Received December 4—9:55 p.m.⁵]

429. Personal attention Secretary of State for consideration in connection with China in Conference.

Marked development in Chinese sense of nationality and patriotism since I was here twenty-two years ago. Then foreign nations proposed partition of China and Chinese seemed indifferent. Today Chinese people are keenly sensitive to and jealous of independence and territorial integrity of their country which indeed [garbled group] and sentiment embraces not only ethnological China, including of course Manchuria, but also Mongolia and Thibet. Hence resentment not only against aggressions of Japan in China proper but also of England in Thibet and of Soviet Russia which now occupies Urga and is rapidly extending control over Mongolia east, west, and south with program of advancing customs station half-way to Kalgan.

Chinese people morally, intellectually, industrially, financially sound and capable of greatest achievements but having for thousands of years left government to a class and that class having now disappeared Chinese people make very bad job of administering government. Public office habitually used as source and opportunity for private profit which in higher positions is immense and in all positions, not excepting judicial, much greater than under the Manchus owing to shortness and uncertainty of terms of office.

Government does not rest on will of people or approval of provinces but on manipulations military bosses who possess troops; no parliament; President's own election of more than doubtful legality. Executive and administrative officials appointed by President generally on dictation military bosses from whom even members Cabinet take orders. Government is as puppet with military bosses pulling strings. These bosses have insisted on drawing large amounts from National Treasury and they intercept taxes on way to Peking on the plea of supporting armies whom they and not Peking government, control.

⁵Telegram in three sections.

As result of these expenditures and of official corruption combined with burden of former loans of which proceeds were similarly wasted Government is now financially bankrupt. It is also politically bankrupt for it does not command obedience or even hold the respect of the people and provinces have ceased to remit taxes. Having nothing, doing nothing, Peking government is liable to pass away.

Principal bosses are Chang Tso-lin, Mukden, and Tsao Kun, leader of Chihli party both ambitious to be President. The latter's follower, Wu Pei-fu, commander of Yangtze troops in military matters, more influential than his chief. Has best army in China and his troops are proud to be his men. Victorious general but poor statesman and politician. Chang Tso-lin clever politician without any illusions and his weapons are force and money. Has army of hundred thousand men and over \$30,000,000. Geographically occupies strong position and has support of Japanese. He told Northcliffe in substance he would control China in two or three years. I should say he cannot win enthusiasm, at any rate hold China, but in any event he is likely to retain Manchuria. He is abler than Tsao Kun, has much more money, and while Wu remains in Yangtze, dominates North. His troops control Peking.

Military bosses control provinces by force and political manipulation. Tsao's Chihli party claims Chihli, Shensi, Shantung, Honan, Hupeh, Hunan, Kiangsi, Kiangsu, Kansu. But Hupeh and Hunan are held only by Wu's soldiers and were evidently to be left free. Kansu politically unimportant. Christian General Feng Yu-hsiang has too much trouble in Shensi to help outside and Governor Chi of Kiangsu can do nothing because of intrigues against him by Chekiang and Anhui, former Tuan Chi-jui's province, latter Chang Tso-lin's.

Chang claims [Heilungkiang], Kirin, Mongolia, Jehol, Suiyuan, and Anhui. He now wants to occupy Kiangsi nominally to assist in repelling advance of Sun Yat-sen's threatened Southern army but really to effect [*offset?*] growing power of Wu in Yangtze Valley. I am reliably informed that Tsao Kun is afraid to oppose this scheme.

Canton government claims Kwangtung, Kwangsi, Kweichow, Yunnan and even Szechuan, Hunan and Fukien. Arnold, commercial attaché, returned last week from Canton where I commissioned him to make political investigations. His report sympathetic with the Southern government of which he says all Americans in Canton speak well. Southern platform constitutionalism, provinces autonomy, abolition of tuchuns and subordination of military to civil authority. Chen Chiung-ming told Arnold he favored gradual

emancipation of provinces from military rule and afterwards federation. He emphatically declared that he and Sun Yat-sen, friends of over twenty years, were today in complete accord. He conjectured America's lack of sympathy with Southern government was due to inadequate knowledge of South's efforts to establish constitutional representative government. He expressed suspicion of Wu Pei-fu who had formerly proclaimed himself friendly to Southern cause and said South if necessary would undertake campaign to emancipate people of Hupeh from his military rule.

From another American observer who traveled through Hunan and Kwangtung in November I learn that Hunan wants to be independent of both North and South and that boasted good government Canton does not extend to Northern Kwangtung. Szechuan has rival leaders and armies but all reports agree that rich and self-sufficient province is not for South or North but for Szechuan. Consul, Amoy, here now tells me Fukien people have Southern sympathies but will follow Tuchun Li who is pretty certain to join [apparent omission] side if fight should come. Kwangtung holds Kwangsi by military force. But I cannot learn that any other province is part of Canton government though Southern provinces have common Southern sympathies. Revenues Canton government seem to be derived from Kwangtung and overseas. No other Southern province contributes anything. Army of over one hundred thousand men, principally Kwangtung, could doubtless be reinforced by troops from other Southern provinces if expedition undertaken against North as Sun Yat-sen advocates though it is understood that Chen Chiung-ming opposes.

Intelligent and well-informed observers here have confidently predicted break between Sun Yat-sen and Chen Chiung-ming on the one hand, and Tsao Kun and Wu Pei-fu on the other followed by alliance of Wu Pei-fu and Chen Chiung-ming on a modified Southern platform. Arnold's report indicates Chen Chiung-ming now regards Wu with suspicion.

Learned from conversation of trustworthy American with Wu in Paotingfu last week that he felt Chen Chiung-ming was not reliable. He added the following: "Recently he sent his man to see me and suggested to me that no plan of unification would be acceptable to him without including retention of old parliament in power and principles of provincial autonomy. Well-established old Parliament cannot possibly be retained. As to provincial autonomy I can say only that I do not want to see China divided. My aim is to guard Central government on the one hand and protect the people on the other hand. Give me three years and I am convinced I shall be able to get a strong and united China." No single military boss can

unify China, certainly for any length of time. If Wu combined with South they might possibly unify China proper though Chihli party and Chang would oppose this progress and Chang Tso-lin, with the support of Japan, would become practically independent. If the two Northern parties combined against the South they might possibly overrun Southern provinces with their troops but could not eradicate Southern political doctrines which have struck deep root in the minds of young and progressive Chinese.

President, Premier, Minister for Foreign Affairs, have all assured me Peking government wanted peaceful settlement with South. At recent dinner Minister for Foreign Affairs told me Government had cabled Lansing advising him to suggest to his friend Wu Ting-fang political conference between North and South. He added that if South objected to present Cabinet he and his colleagues were ready to resign but it would be different matter if South demanded elimination of President Hsu. At Minister of Navy's dinner last night Minister for Foreign Affairs told me Lansing had received answer from Wu Ting-fang who made conditions of conference resignation of President and presentation of Twenty-One Demands to Washington Conference. Minister for Foreign Affairs intimated Peking government would like latter condition but he considered resignation of President now would break continuity all governmental authority and create chaos. He said that if new Parliament now being elected met and elected new president difficulty might be overcome. I did not point out notorious fact that South recognizes only old Parliament as legitimate.

At a recent social gathering Minister for Foreign Affairs, in conversation with me, observed that Federal Government was not well suited to modern democracies which were required to take prompt and energetic national action. It is my opinion Northern parties want consolidated central government with control of provinces perhaps something like France. Confronted with Southern demands they insist that Peking government organization is a going concern and they do not see why it should be discarded and a new start made. The South take similar position, claim to have president, constitutional and legal government in China and insist there is nothing for other provinces to do but come in. The provinces outside both Peking and Canton governments want to be left free to manage their own affairs and are not much concerned about any central government.

Meantime there is one hopeful feature in the situation. While the Chinese people generally are absolutely indifferent to government affairs I have noted awaking of interest in financial, banking and mercantile class, supplementing previous interest on the part of

student and educated classes. National conference of Chinese chambers of commerce, Shanghai, October, showed from beginning marked tendency to deal with political questions rather than economic and commercial subjects. They held joint sessions with national educational association for consideration political subjects. Both united in calling citizens convention to meet January 1st, call being addressed to provinces' assemblies, agricultural associations, Chinese bankers' associations, Chinese press associations, Chinese lawyers' associations, Chinese Chamber of Commerce and Chinese educational associations. Aims of the convention to bring about complete cessation of hostilities and consolidate foundations of Republic. China's financial troubles have also contributed to deepening interest of bankers and business men in Government affairs. I believe ignorant inarticulate masses would be content with such government as educated and business interests approve especially if agricultural associations also accepted it.

Political education will be slow, especial benefit. Chinese while learning difficult art self-government must pay off and disband big armies, suppress tuchuns and pay large debts. Political evolution may be accompanied by local revolutions. Impatient and insistent commercial nations must give China time. Only Chinese can solve China's problems and they will do it in Chinese way. China's greatest need today is effective guarantee of time and opportunity for that purpose. . . .

One thing Disarmament Conference could do to help China would be to formulate policy of disbanding troops which now number million quarter men. These troops useless for national defense or maintenance internal order. Wu Pei-fu says China cannot equip, train, discipline one-fifth of number to efficiency as police force. Loans for disbandment not recommended because effective foreign supervision impossible. Best solution is strict embargo on foreign arms and munitions which are much superior to native. Present embargo flagrantly violated. I believe moral effect on Chinese of strong declaration by Conference in favor of disbandment troops would be very considerable. No offense could be taken by Chinese as it would be merely application disarmament to China.

Second assistance Conference might render China would be an appeal to Chinese in their own interests to unite their country politically. Care must be taken to present matter as Chinese interest not foreign. Platform of unification would be left to Chinese but Washington Conference might, it would seem, demand as condition of continuance of recognition the following fundamental principles now disregarded in Peking government, namely, some form of constitution even if temporary and representative legislative council and

chief executive legally elected. Possibly Conference might also specify provincial autonomy which, subject to imperial appointment of governors, has always been fundamental principle of Government in China.

Only wise fruitful policy towards China is one of encouragement and stimulation Chinese [apparent omission]. International governmental control if attempted would be paralyzed by passive resistance of Chinese to say nothing of cost, jealousy of powers and ultimate predominance of nearest neighbor. International financial control should be limited to protection of foreign debt and supervision of expenditure new loans. If all debts were consolidated and made charge against foreign administration under international commission would not be objectionable. Control or supervision of salt, wine and tobacco more difficult because of wide area to be covered and more unpopular because of increased contact with China. For these reasons control over land tax which has great possibilities as revenue producer would be still more strenuously resisted. Furthermore, Peking receipts from the salt, wine, tobacco and land rapidly declining and may become a zero. As regards customs administration America should have equal share with other governments.

China is entitled to demand thorough revision of the tariff with differentiation between luxuries and necessities. Present rate 5 percent or even 12½ percent unscientific and deprives China of large amount revenue. But abolition of likin should go with revision of tariff and Government cannot force abolition of likin if it desires. Local military chiefs depend largely on likin and similar taxes for support. Likin cannot be abolished till troops are disbanded and political unification of country effected and adequate government established.

Chinese postal administration under foreign supervision quite efficient and progressive. Foreign post offices therefore unnecessary also detrimental to Chinese revenues and prestige. They should be abolished. It is different with proposed retrocession of concessions at treaty ports in which however other nations are more interested than United States. While these concessions should be retained for the present as essential to protection foreign business against squeeze exactions and official interference, powers should prohibit their nationals from harboring political refugees in concessions and legations.

As regards abolition of extraterritoriality, proposal premature with Chinese Government what it is today. And even were Government thoroughly reformed extraterritoriality should not be abolished till China has not merely adopted modern codes and procedure but

developed sound habits of judicial administration and practice which would prevent return to system of delay, improper influence, squeeze and corruption all but universal today.

China greatly needs more railways. They would not only promote trade and interest [*sic*] but contribute to unification disconnected provinces. Most urgently needed and I suppose most promising developments financially are Hankow-Ichang and Hankow-Canton Railways, where there seems chance of enlarging American participation and preventing present American sections' being bottled up. I venture to suggest that Department urge American group consortium to take more active interest in Chinese railway projects. There is some apprehension that the consortium will do nothing for the United States in China and yet have effect of stifling individual enterprise. These first years after war are America's golden opportunity here. Minister of Foreign Affairs told me last night Germans were coming to China to engage in manufacturing cooperatively with the Chinese so as to escape export duties at home. Americans have far more capital for such cooperative enterprises. I have also thought consortium might be vitalized by introduction group Chinese bankers, cooperation banking groups great power.

Our fundamental policy of Open Door in China should be maintained and applied to new conditions. Just in itself it is equally advantageous to China and America. That policy combined with our unselfish defense of independence and territorial integrity of China has won for America the good will of Chinese people which is an invaluable asset. We are universally regarded by Chinese people as their special friend. Community of republican institutions draws them closer to us. If we can aid in strengthening Chinese Republic through Conference or otherwise America's position in China will be rendered still more favorable.

SCHURMAN

893.002/65 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 18, 1921—5 p.m.

[Received December 18—2:45 p.m.]

451. Entire Cabinet has resigned, although resignation not yet accepted. Action precipitated by Chang Tso-lin who arrived here 13th. From reliable source I learn present plan is to make Liang Shih-yi Prime Minister. His government would represent com-

bination of Chang's military party with old communications party whose leading members have large investments in commercial and industrial enterprises in China. Program would probably be unification of China and rehabilitation of finances. Latter believed possible through action upon tariff in Washington. Government administration by business men dependent on attitude of Tsao Kun, Wu Pei-fu, Canton and other independent leaders which is still uncertain, but Liang Shih-yi months ago favored peace arrangement with Chen Chiung-ming. Apart from personal motives both Chang and Liang believe present political situation a real danger to China.

SCHURMAN

893.00/4168 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 21, 1921—4 p.m.

[Received December 21—1:02 p.m.]

457. Supplementing my 429, December 3, 5 p.m. Chang Tso-lin called yesterday for half an hour prearranged visit, remained full hour and asks permission come again. I questioned him about new administration and he confirmed my 451, December 18, 5 p.m. He talked freely Government weakness, inaptitude and corruption saying that of any loan formerly contracted by the Government half might have gone as squeeze. Provinces would not supply a government so dishonest, inefficient and weak nor would he or people in America in like case. His panacea is strong, capable and honest central government compelling obedience and neither taking nor permitting others to take graft. Declared that was system practiced in Manchuria. I asked how he would secure such cabinet. Answered that was job of President whom he had yesterday angered by his plain talk. If President did not get such men he would again upset Cabinet. Thinks financial conditions not as serious as generally imagined as Chinese people solvent and China's resources great. In reply to my inquiry regarding disbandment troops declared Manchuria needed present troops for protection against robbers and policing long border and China generally could stand little reduction of troops whose maintenance cost anyway was small. He favors unification of country but separate from trust to manipulations of leaders or to force and certainly has no popular government or constitution [*sic*]. Said epigrammatically have read foreign constitutions, have read Chinese history, they do not harmonize. He wants government adapted for Chinese, thinks his Manchurian government is, and constitutional institutions cannot be.

Chang Tso-lin is obviously intelligent and able. I surmise that surveying his career and weighing his rivals he has come to believe himself man of destiny for salvation of China.

SCHURMAN

893.002/67 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 27, 1921.

[Received 8:55 a.m.]

468. New Cabinet assumed office 25th: Premier, Liang Shih-yi; Foreign Affairs, Yen; Finance, Chang Hu; War, Pao Kwei-ching; Navy, Li Ting-hsin; Communications, Yeh Kung-cho; Justice, Wang Chung-hui; Commerce, Chi Yao-shan; Interior, Kao Ling-wei; Education, Huang Yen-peí.

SCHURMAN

**ELECTION OF DR. SUN YAT-SEN AT CANTON AS "PRESIDENT OF THE
REPUBLIC OF CHINA"**

893.00/3736

The Vice Consul in Charge at Canton (Price) to the Acting Secretary of State

No. 209

CANTON, January 11, 1921.

[Received February 7.]

SIR: Believing that the Department would be interested in receiving first hand observations of this Office on the personnel of the Southern Military Government, as now re-constituted, I have the honor to state the following:—

Regardless of the question of the legality and status of the Government which was set up in the South some years ago by Dr. Wu Ting-fang, Dr. Sun Yat-sen, Tang Shao-Yi and others, there would appear to be no question but that that Government ceased to be able to function in Canton under its own constitution on the departure of the above three named gentlemen and of the representative of Tang Chi-yao of Yunnan from Canton in March of 1920, and that it was able to function again according to its constitution on the return of these four officers to Canton; in as much as four of the seven Directors of the Administrative Council are required to make a quorum. The period of the *de facto* government under the so-called Kwangsi faction can logically be considered a hiatus in the functioning of the Southern Government, terminated by the return, on November 30, 1920, to Canton of the four leaders mentioned.

Since the return of these leaders I have had the opportunity of observing their official acts with some degree of care and of deriving from that observation an opinion regarding the ability of these men and their devotion to their own principles. Although it is difficult to form a decided opinion from such a limited observation, I am very much inclined to believe that the prospects of success of the Government have never been brighter. In this opinion most foreigners in Canton, who have been resident here for some time, concur. The men who compose the Government give a real indication of devotion to the welfare of the people over whom they exercise power. In support of this opinion I would refer to several administrative acts of the Government, such as the abolition of gambling,—by reason of which the Government has forfeited an income of probably ten million dollars a year—; the reduction of the army and its reorganization on a businesslike basis,—an act which was accompanied by the disbandment with full pay of a large number of troops—; the abolishing of unnecessary governmental posts, such as those of Defence Commissioners and Circuit Intendencies; the serious attempt on the part of the Commissioner of Finance to improve, without unduly increasing, the taxation of the Province of Kwangtung; the setting up for the City of Canton of a municipal administration along Western lines; the evident attempt on the part of the officials to exercise both administrative and personal economy; and the projects for developing the Province by the building of roads and the continuance of river conservancy undertakings.

In addition to carrying out these administrative acts, evidently calculated to improve the position of the Government with the people whom they govern, the men who compose the Government have shown a most refreshing lack of ostentation or of desire to cater to foreigners. They have done but little entertaining and have permitted very little to be done on their behalf. They themselves, from all indications, are hardworking, earnest, and personally abstemious. Aside from a difference of opinion between Dr. Sun Yat-sen and General Ch'en Ch'iuung Ming, the Civil Governor and Commander of the Kwangtung forces, over the question of a military expedition against Kwangsi there has not appeared to have been any vital disagreement or factional dispute in the Government itself since its reconstruction. These leaders of the Southern Government are enlightened men, acquainted with foreign ideas and methods and, for the present at least, are making a praiseworthy attempt to demonstrate their ability to work together and to govern the people over whom they are exercising power to the satisfaction of the people themselves.

All things considered I am of the opinion that it is to the interests of the United States to adopt towards these men who constitute the present *de facto* Government of a considerable portion of South China an attitude of sympathy. I am frank to say that in their administrative acts as leaders of a *de facto* power in South China they have done more to arouse the respect of foreigners than I have ever seen done by any group of men who happened to be in power in Peking during the past six years. I need not reassure the Department that, although my observations of these men who compose the *de facto* Government of South China have been favorable, I have not permitted myself to enter into any relationship with them that might be construed as sympathetic toward a political undertaking which has not received the recognition of my Government.

I have [etc.]

ERNEST B. PRICE

893.00/3817

The Minister in China (Crane) to the Secretary of State

No. 874

PEKING, February 28, 1921.

[Received April 7.]

SIR: As throwing an interesting light on the inner workings of the so-called Canton Government, I have the honor to enclose herewith the translation of a letter from Admiral Li Ho, of the Chinese Navy, addressed to a friend in the President's office and intended for the information of the President.⁷

The writer was sent to Canton as one of the numerous class of emissaries who are now to be found in the various opposing political camps endeavoring to arrange a general reconciliation. He is described as a Christian of many years' standing and worthy of credence. In brief, the letter ascribes sincerity to the Administrative Directors, but considerable divergence in views, and indicates rivalry between Sun Yat-sen and Ch'en Ch'iung-ming.

The Legation is reliably informed from other sources, as well, that the associates of Sun Yat-sen ever since the Revolution of 1911 have been greatly embarrassed by his impracticable and grandiose schemes. He is reported to be a man of great personal vanity, although sincere in his motives, and much given to initiating projects of national magnitude that he has not as yet in any case brought to fruition. His prestige is undoubtedly great in his own province of Kwangtung, but in the North he is regarded as at the best an unpractical idealist . . .

I have [etc.]

CHARLES R. CRANE

⁷Not printed.

893.00/3869

The Vice Consul in Charge at Canton (Price) to the Secretary of State

No. 248

CANTON, April 6, 1921.

[Received May 24.]

SIR: I have the honor to report on political conditions in this consular district up to the present date.

The political situation in Canton seems to be moving rapidly toward a crisis. A three cornered struggle over the question of the election of a president has been going on. One group, headed by Dr. Sun Yat-sen, are in favor of calling the remnants of the 1915 Parliament, of which they claim there are 378 members now in Canton, in extraordinary session for the election of a president; another group, in which the Civil Governor, Ch'en Ch'ung Ming, figures prominently, believe in the election of a president but think that it should not be done unless an actual quorum, 492, of the Parliament is obtained; while the third group, which I believe Tang Shao-yi supports, at least discreetly, do not believe that the time is ripe for the election of a president at all. It begins to look as if the party in favor of the election in extraordinary session is winning out. Heretofore, the consciousness of the necessity of union and harmony has kept the various groups working together but the very current belief in Kwangtung that the Kwangsi militarists are preparing to attack Kwangtung and the downfall of General Tang Chi-yao in Yunnan have added strength to those who favor drastic action for the carrying out of the Constitutionalist program.

I have inquired carefully of the different groups of leaders in Canton with regard to their reasons for the positions they have taken. The Sun Yat-sen group say this: North China is on the point of political disintegration. General Chang Tso-lin is planning a Monarchical Restoration in Peking or Manchuria where he will set up a monarchy with either the Boy Emperor or Prince K'ung as Emperor. In the opinion of Dr. Sun and his supporters the defection of Mongolia is a part of this move and was deliberately planned by General Chang Tso-lin who hoped to do one of two things; either compel his rival, Ts'ao K'un to so weaken himself by an expedition to recapture Mongolia that Chang Tso-lin could accomplish his Monarchical *coup d'état* in Peking; or, failing that, to set up his monarchy in Mukden and incorporate Manchuria and Mongolia into his new state. Sun's party maintain that Chang Tso-lin will fail in either event and also in either case the present Northern Government—Parliament and President—will collapse and flee from Peking. When this happens Dr. Sun insists that the provinces will

be forced to look for some other political nucleus around which to gather; that if the Constitutionalists have a president and a parliament functioning the provinces will certainly espouse their cause while otherwise the victorious militarists in North China will again set up another bogus parliament and elect another bogus president.

The second group above referred to believe that even though the Constitution provides for extraordinary sessions of Parliament wherein only fourteen provinces need be represented any act of such parliament would be actually non-representative and therefore no extraordinary session of parliament should decide such an important question as the election of a president. They believe that if a quorum can be secured then parliament would be unquestionably justified in electing a president, if it so desired, as provided by the Constitution.

The slogan of the third group might be summed up in the slang phrase, "Sit tight". They believe that the strength of the Constitutionalist Cause heretofore has been their adherence to strict Constitutionalism and their insistence on the continuance and perpetuation of the Chinese Constitution as originally adopted. This group feel that if Kwangtung province can be allowed to develop a strong, enlightened and efficient government the other provinces will eventually join Kwangtung. Meanwhile the continuity of the Revolution and of the Constitutionalist Cause will have been maintained.

As regards the possibility of hostilities between Kwangsi and Kwangtung, all groups are now inclined to believe that such is inevitable. I have received some very interesting reports from a number of different sources indicating a mobilization of Kwangsi troops near the border of Kwangtung. I have also been informed that munitions of war are being carried from Hongkong into Kwangsi by boats flying the British flag. General Ch'en Ch'ung Ming has assured me that so far as he is concerned not one of his soldiers will set foot off Kwangtung soil unless attacked. On the other hand Dr. Sun Yat-sen is reported as feeling strong enough to order an attack on Kwangsi and he believes that General Ch'en Ch'ung Ming will not dare to refuse his orders. Of course, with Kwangtung troops also stationed near the border it would be easy for either side to claim that the other committed the first overt act of hostilities. Dr. Sun Yat-sen told me in person that the Kwangsi expedition was necessary for two reasons; the first was self-protection and the second because with Kwangsi "freed from its military overlords" and back in the fold of the Constitutionalists, Yunnan, Hunan and Kweichow would be more definitely allied with Kwangtung.

In conclusion it may be said, by way of forecast, that the party demanding an election of a president for the Constitutionalist Government, whether by an extraordinary session or by a regular session of Parliament, will probably win out and that hostilities between Kwangtung and Kwangsi may be looked for in the near future, unless events in North China should develop more rapidly.

I have [etc.]

ERNEST B. PRICE

893.00/3868

The Vice Consul in Charge at Canton (Price) to the Secretary of State

No. 251

CANTON, *April 20, 1921.*

[Received May 23.]

SIR: I have the honor to report on political conditions in this consular district. This report should be read in connection with my despatch No. 248 of April 6, 1921.

Probably not for some time has the political situation in South China been more interesting or more fraught with serious possibilities affecting not only the South but all China. In my telegram of April 8, 1921, 10.00 a.m.,⁸ to the Department and to the Legation I reported what I had prophesied in my despatch No. 248 of two days previous, the election by the remnants of the so-called "Old Parliament" sitting in extraordinary session in Canton of Dr. Sun Yat-sen as President of the Republic of China. While anticipated, the actual consum[m]ation of this act came, I believe, as a general surprise and is commonly believed to have been premature. My understanding of the election is that the Parliamentarians met informally to decide whether they should convene as an extraordinary session of the old parliament and, agreeing that they should so convene, they decided to do so at once; and finding on their agenda the one piece of business of paramount importance, namely, the election of a president, they proceeded to the election then and there. I understand that there were 225 members present and that 222 votes were cast for Dr. Sun Yat-sen, 2 for General Ch'en Ch'ung Ming and one unnamed.

Since the election I have either talked personally with or heard indirectly from most of the leaders in Canton. I believe there is no question but what Mr. Tang Shao-yi is genuinely disappointed and displeased. As I pointed out in my previous despatch above referred to, Mr. Tang has been one of the group of men who felt that the South should not, for the present, elect a president and

⁸ Not printed.

that the safest road was along the line of a gradual accretion of power through the strengthening of the province of Kwangtung. I believe Mr. Tang Shao-yi will not take a part in the re-organized government for the time being at least. On the other hand I do not believe he will turn traitor to his former colleague.

I believe that Dr. Wu Ting-fang and his son, C. C. Wu, also disapproved of the election of a president at this time. They have come out, however, in support of Dr. Sun.

I believe that General Ch'en Ch'ung Ming, the civil governor, had contemplated the possibility of an election of a president and its probable effects thoroughly enough so that he was the least surprised. General Ch'en, I believe, has always had a strong personal belief in Dr. Sun Yat-sen and in the cause of democracy which Dr. Sun undoubtedly represents. It is my belief that General Ch'en intends to give Dr. Sun a fair trial. That by no means implies that he intends to give up all his own power. Like most strong men, General Ch'en believes in himself and furthermore I am sure that he is a practical patriot. I think he will support Dr. Sun until and unless he is convinced that Dr. Sun's policy will injure Kwangtung.

Regarding the legality and propriety of a group of 222 men out of nearly one thousand who composed the old parliament electing a president for the whole of the country the representative consensus of opinion among Southern leaders seems to be this: Whether or not 222 out of 1,000 members of parliament could be said properly to represent the country, they were, after all, members of the only legally elected parliament in China; and therefore Dr. Sun's claim to the Presidency is the best approximation of Constitutionality that can be obtained in China. One man said frankly, "A quorum of the legal parliament could not be obtained. It was better to have a government functioning by the will of what was left of the only legal body of popular representatives in China than to agree to a recognition of a parliament and a president that had not been constitutionally constituted."

As regards the possibility of another conflict between Kwangtung and Kwangsi, I believe that the physical proximity of the two bodies of opposing troops on the border will bring about a clash eventually, and that conflict will be proclaimed by each side as having been started by the other.

I feel that the future welfare of South China depends upon whether Dr. Sun Yat-sen decides to take aggressive action both internally and in the Province of Kwangtung and externally *vis-à-vis* Kwangsi and the rest of China. I do not believe General Ch'en Ch'ung Ming intends to surrender much of his power in the Province. It is understood that as a tacit recognition of General Ch'en's

actual control in the Province, Dr. Sun intends to appoint General Ch'en as Minister of Home and Military Affairs. General Ch'en, however, will probably insist on keeping control of the provincial finances through the appointment of one of his supporters as Minister of Finance. Tang Shao-yi, I understand has been offered this post and I believe would be acceptable to both men but as I reported earlier in this despatch I do not think Tang will accept any post for the present. It is significant that General Ch'en's present Provincial Commissioner of Finance is Mr. Liao Chung-k'ai, an ardent supporter of Dr. Sun Yat-sen. It is rumored that Dr. Sun wishes Liao for the position of Minister of Finance, and as Ch'en had felt compelled to accept Liao for Provincial Commissioner he may not feel disposed to oppose his appointment as Minister of Finance.

In conclusion, the general consensus of opinion among persons friendly to the present political leaders in South China, both Chinese and foreign, would seem to be that if the Government, as reconstituted in South China, can devote its energies primarily to building up an efficient and upright administration and to promoting the economic development of the people of Kwangtung, it has a very good chance to become heir to the power over a much larger portion of China when the forces of disintegration elsewhere in China have accomplished their work.

I have [etc.]

ERNEST B. PRICE

893.00/3889

The Vice Consul in Charge at Canton (Price) to the Secretary of State

No. 255

CANTON, *May 2, 1921.*

[Received June 2.]

SIR: I have the honor to report on political conditions in this Consular District.

Preparations are under way for the inauguration of Dr. Sun Yat-sen as President on May 5, 1921. There have been parades and some street speech-making, but whether the moderate display of enthusiasm is simulated and stimulated it is hard to say at this juncture.

The constitution of Dr. Sun's Cabinet is still indefinite. It seems practically certain that Dr. Wu Ting-fang will remain as Minister for Foreign Affairs, and possibly conjointly Minister of Finance. General Ch'en Ch'iung-ming will remain, if he remains at all, Civil Governor of Kwangtung, and possibly Minister of the Interior and of Military Affairs. There is a strong rumor that owing to the very serious financial situation he will follow Tang Shao-yi into retire-

ment. There is no attempt made in any quarter to minimize the seriousness of the financial situation, made acute by the necessity of repelling the invasion of Kwangtung by Kwangsi which has already begun. This I reported to the Legation in my telegram of April 29, 1921, 5 p.m.⁹ I believe it is indicative of the determination of General Ch'en Ch'iu-ning not to fight if he could help it [and?] that the actual commencement of hostilities has caused him real dismay. He has realized better than Dr. Sun that with the revenues of the Province barely sufficient for peace time administration the Province would have extreme difficulty in financing a military campaign. He is nevertheless meeting the situation and troops are now moving toward Linshan, the scene of the Kwangsi foray. It is a most precarious situation that Kwangtung now finds itself in, however, and the local authorities are making desperate attempts to find money. Up until this situation arose the local administration had been carrying on with a fair degree of success without outside money, but now they are trying to get funds from outside sources. Up to date I understand that they have not succeeded. The Bank of Taiwan loan of \$1,000,000, reported in my despatch of April 20, 1921 (unnumbered),¹⁰ has not yet been completed. An organization which I believe is called the "Société Missionnaire", the financial agency of the French Catholic Church in Hongkong headed by Père Robert, is believed to be prepared to negotiate a loan of from \$3,000,000, to \$10,000,000, with the development of the island of Daishatow, within the limits of the municipality of Canton, as security, but this also has not yet been accomplished. The local Government did get \$1,000,000 from Chan Lim-pak, compradore of the Hongkong and Shanghai Banking Corporation, Canton, as a consideration for the appointment of Chan Lim-chung, Chan Lim-pak's brother, to the post of Director of the Canton Mint. The "consideration" undoubtedly involved a monopoly for the supplying of silver bullion to the Mint by the Hongkong and Shanghai Banking Corporation. No doubt, with this hold on the Mint, the Banking Corporation will fare better than did the American Metal Company whose account with the Mint for the supplying of silver bullion is still unsettled.

If the present situation leads to the collapse of the local Government in Kwangtung it will be a genuine misfortune to American interests. The present group of leaders is all that is keeping the British from getting the confirmation of the Cassell "Kwangtung Collieries" Agreement, which, all Americans are agreed would close the door to us in South China. It is interesting in this connection to learn that the Governor of Hongkong and Sir Robert Hotung, com-

⁹ Not found in Department files.

¹⁰ Not printed.

pradore of Jardine, Matheson & Co., Ltd., Hongkong, are on a trip to Peking, and are reported to have had interviews with the British Minister and with President Hsu Shih-ch'ang. It is currently believed that this visit is connected with the Cassell Agreement. It is also interesting to cite in this connection the obstinate rumor that arms and ammunition are going from Hongkong to Kwangsi under British flag. I mentioned this rumor to the British Vice Consul here today, and found it noteworthy that he did not attempt to deny it, but merely stated that he understood that most of Kwangsi's supplies of arms and ammunition were coming into Kwangsi across the Tongking border.

The consensus of opinion in Canton seems to be that if the local Government can get enough funds to carry on the Kwangsi enterprise, Kwangtung will win, and that if Kwangtung does win against Kwangsi the resulting confederation will undoubtedly comprise, besides those two Provinces, the Provinces of Hunan, Yunnan and Kweichow. If, on the other hand, they cannot get the money, Kwangsi will find an open road in Canton.

If Kwangsi gets back into Kwangtung, the future looks dark for American interests and for China. It will mean the displacement from Kwangtung, its last stronghold in China, of the opposition to militarism. With militarism rampant throughout all of China, I am personally frank to admit that I see no alternative to an international receivership for China. For the sake of the future peace of the world we cannot afford to see China revert to a scramble for concessions.

One thing more is of interest at this time. The Japanese Consul General paid an official call to express the congratulations of his Government to Dr. Sun Yat-sen. Dr. Sun told me two days ago that at that call the Consul General stated that he was instructed to tell Dr. Sun that he would receive recognition as soon as Dr. Sun agreed to the Twenty-one Demands. I give this report for what it is worth. . . .

I have [etc.]

ERNEST B. PRICE

893.00/3902

The Vice Consul in Charge at Canton (Price) to the Secretary of State

No. 258

CANTON, May 7, 1921.

[Received June 14.]

SIR: I have the honor to report that the "Inauguration" of Dr. Sun Yat-sen as "President of the Republic of China" took place according to schedule on May 5, 1921. As, naturally, I could

not attend the ceremonies, my knowledge of what took place there is based on the reports of friends who attended. My own observations were confined to "the man in the street" as seen from a vantage point on the Bund some two miles from the scene of the actual ceremonies.

Not only I but many old residents of Canton were amazed at the display of popular interest in this event. For days before the 5th steamers, junks and trains were crowded with people coming to Canton. Hotels and rooming houses were swamped. For the day itself there was a complete shut-down of shops and other places of business, not, I understand, by order, but voluntarily. Shops, boats and road vehicles were decorated. For hours before the time set for the inauguration,—12 noon,—a stream of humanity that practically filled the broad Bund surged past the place where I looked on toward the center of attraction two miles away. The river was likewise crowded with every kind of boat, all moving in the same direction. This went on for at least three hours in the face of a pouring rain.

Those who attended the actual ceremonies tell me that for blocks in every direction there was a solid mass of humanity through which the inaugural parade made its way with difficulty but in perfect order. There was everywhere a marked absence of police and soldiers. The parade was marshalled by Boy Scouts, assisted by a very small scattering of mounted police. In the parade itself there were not over five or six companies of soldiers. The parade was made up of and represented nearly every activity in the city,—students, merchants, guilds, labor organizations, and—but distinctly in the minority—governmental departments. All observers with whom I have talked agree that there was a distinct spirit of enthusiasm both in those who made up the parade and in the crowd that watched. Much of the decoration of the parade was quickly ruined by the rain, but still it kept on and still the people watched and cheered.

In the evening came a river parade which I did not attempt to see because of the rain, but which I understand took place according to schedule.

Throughout the celebration there was apparent a modesty of official display. Decorations of the streets, buildings and river craft were obviously by the people themselves. The ceremony was extremely simple, the reception following it was, I understand, most modest.

The most interesting feature of the whole thing was the very apparent part taken in the demonstration by the common people. There was undoubtedly both interest and approval shown by those masses of people who took part and who looked on. Had there

been any considerable amount of opposition to Dr. Sun among the people of Canton it must have asserted itself. In view of the more than usual lack of ordinary police surveillance, the order, cheerfulness and apparent unanimity of that huge crowd of people was remarkable.

Since his accession to office, Dr. Sun has issued his first "Presidential Mandates", appointing his Cabinet. As appointed the Cabinet Ministers are as follows:

Wu T'ing-fang,—Minister of Foreign Affairs;
 Ch'en Ch'iung-ming,—Minister of Interior and of War (It is understood he remains as Civil Governor as well);
 T'ang Shao-yi,—Minister of Finance;
 T'ang T'ing-kuang,—Minister of the Navy;

Other appointment[s] are:

Li Lieh-chün (now Commander of Yunnan troops in Hunan—Chief of Staff);
 Hsü Chien,—President of the National Law Court, (The Ministry of Justice is thus abolished);
 C. C. Wu,—Vice Minister of Foreign Affairs;
 Liao Chung-k'ai,—Vice Minister of Finance;
 Ch'eng Ch'ien,—Vice Minister of War, (Former Commander of Hunan troops);
 Lin Yung-mu,—Vice Minister of the Navy, (Former Commander of the Cruiser *Hai Chu*); and
 Chiang Tsun Kwei,—Assistant Chief of Staff.

While the demonstration which took place on the 5th undeniably indicates that Dr. Sun Yat-sen has a real popular support in his own city, the fact should not be overlooked that the business people, particularly the larger ones, view the situation with a good deal of pessimism. The Chinese business man is notoriously selfish and lacking in patriotism, and I believe it is as true here in Canton as elsewhere. The commercial people see in the situation evidence of an indefinite prolongation of disunion and political unrest. While I do believe the Cantonese business man prefers his own present leaders to any others, he prefers most of all a state of things wherein he can pursue his business with a maximum of certainty and a minimum of interest in governmental affairs. So far the Chinese commercial classes have refused to assume the burden of self-government, while at the same time complaining if those who do rule demand their assistance and participation.

On the other hand there is evidence of a growing class-consciousness on the part of the laboring class. This group supports Sun, and it is this group that was most strikingly represented in the pre-inauguration and inauguration day demonstrations.

As to the future prospects of the South I can only repeat what I said in my despatch No. 255 of May 2, 1921. I am convinced

that the present group of leaders will hold together and will maintain a hold over a certain section of China at least provided they do not have to carry on a military enterprise. I am also convinced that in this group of men, not merely Dr. Sun but the really large and loyal group of men who are supporting the principle and cause of democracy in South China, lies the only hope for China. These particular men may never see the realization of their hopes, but it will only be men actuated by their ideals of public service and zeal to lead their inarticulate people up to a plane of political and national self-consciousness and self-expression that will save China from the slough in which she has been wallowing as a nation and into which she seems to be sinking constantly deeper.

As a democratic people I feel that it is in accord with our own feelings and our own best interests to extend real sympathy wherever an honest effort is being made to establish democracy anywhere in the world. In this I am confident that I speak the feelings of every American in South China. Daily I have Americans say to me: "Isn't there some way in which we Americans or our country can let these people know that they have our sympathy?" I might add that any definite suggestion coming from the United States as to how South China could, without compromising her fundamental ideals, effect a union with the North would, I am sure, be gladly and sympathetically received. I wish it were possible for our older democracy to show the way to help the Chinese people now struggling toward the light to see their way.

I enclose without comment a copy of a "Manifesto",¹¹ and a sealed letter addressed to the President of the United States, which I have been asked to transmit.¹²

I have [etc.]

ERNEST B. PRICE

893.00/3866

The Personal Representative of Dr. Sun Yat-sen (Ma Soo) to the Secretary of State

WASHINGTON, May 14, 1921.

SIR: I have the honor to transmit to you the accompanying cablegram in pursuance of instructions received by me from Dr. Wu Ting-fang in Canton, reading:

"Ma Soo, Washington: Please communicate to the State Department the following manifesto to the Foreign Powers issued by President Sun Yat-sen on his assumption of office.—Wu Ting-fang."

I have [etc.]

MA SOO

¹¹ For text of manifesto, see p. 336.

¹² See instructions, June 25, to the consul general at Canton, p. 339.

[Enclosure]

*Manifesto to the Foreign Powers Issued by Dr. Sun Yat-sen,
May 5, 1921*

During the last four years the patriots of China have been waging war against the militarists and traitors of the country for the cause of constitutional government and for the national existence itself. It has been no war between the north and south of China but a struggle between militarism and democracy, between treason and patriotism. That the people in the north are sympathetic to the purposes and aims of the south has been demonstrated by the fact that they have spontaneously organized demonstrations and boycotts for the same purposes and aims.

The government at Peking has lost the last vestige of its control over the provinces. Even those nominally within its jurisdiction, where the military satraps are plundering the people and ruining the country, it has even to take orders from them. These militarists wage war among themselves in the struggle for power. One of them has lately gone to the extent of treacherously leaguering himself with the Russian monarchists and aiding and abetting them to attack and capture Urga.

While the Peking government is fast crumbling from sheer hollowness, foreign domination tends to spread from north to south. The existence of China as a nation is in jeopardy. Since the unconstitutional dissolution of the National Assembly in June 1917, no *de jure* government has existed in Peking. New election laws may have been made and new national assemblies may have been elected, but they all lack legal basis. Confirmation of this view has come from an unexpected quarter—from Hsu Shih-chang himself, when he issued the order in October last for the holding of a general election based not on the new election law which is the basis of his own title, but on the old election law which is incompatible with his claim to the Presidency. The extraordinary spectacle is thus presented of the self styled President of the Republic confessing that he has no legal right to that title. Thus in this hour of crisis when the national existence itself is imperilled there is in Peking no government which is legally constituted or able to discharge the functions of government.

Under these circumstances the National Assembly, the only body of legally elected representatives of all the provinces and territories of the country has established a formal government and has elected me to be President of the Republic. Being the founder of the Republic I cannot afford to see her in danger without making an effort to save her. Having been summoned once before in 1911 to the Presidency, from which I resigned after a short tenure, in order, as I thought, to bring about unity to the country, I intend now to do

all in my power to discharge those duties and functions honestly, faithfully and to the satisfaction of my fellow citizens.

As the National Assembly which has elected me represents the whole country irrespective of north or south, so it shall be my first endeavor to unite all provinces and territories of the Republic under one government, which shall be progressive and enlightened. The legitimate rights of foreign powers and their nationals duly acquired by treaty, contract or established usage shall be scrupulously respected. The vast resources of the country, natural and industrial, shall be developed so that the whole world suffering from the disastrous effects of long years of war will be benefited. For this purpose foreign capital and expert knowledge will in pursuance of open door policy be welcomed. There is little doubt that with the southern provinces enjoying good government and prosperity under honest administration and a constructive program, other provinces will be only too ready to throw off the yoke of militarism and misrule and, acknowledging the authority of this government, will bring about the much desired unification of the country. I believe my task is lightened by the fact of the illegality and incompetency of the Peking government. That government is not recognized by the Chinese people themselves, it is being propped up solely by the fact of its possession of the historic capital of the country and its consequent recognition by the foreign powers.

I appeal to the governments of the friendly powers to withdraw recognition from the *soi-disant* government which is avowedly no *de jure* government and which is proving itself not even a *de facto* government. And in the same manner in which they recognized the republican government formed by the National Assembly in 1913 I request that they accord recognition to this government formed now by the same Assembly. This is the only government of the Republic actuated by no desire of selfish gain, but by the sole motive of serving the Republic to the best of their ability. Members of this government represent those ideals and those principles which, if the Republic is to survive and take its rightful place in the family of nations as they firmly believe she will, must necessarily triumph, viz, liberalism, constitutionalism and devotion to commonweal.

893.00/3913

*The Personal Representative of Dr. Sun Yat-sen (Ma Soo) to
President Harding*

WASHINGTON, June 16, 1921.

YOUR EXCELLENCY: I have the honor to transmit to Your Excellency the enclosed letter from Dr. Sun Yat-sen, which I received from Canton this morning.

I have [etc.]

MA SOO

[Enclosure]

Dr. Sun Yat-sen to President Harding

YOUR EXCELLENCY: I have just issued a Manifesto to the Friendly Nations¹³ but I am impelled, on behalf of my countrymen, to make a particular appeal to Your Excellency, for the reason that we regard America as the Mother of Democracy, and the champion of liberalism and righteousness, whose disinterested friendship and support of China in her hour of distress has been demonstrated to us more than once. China is now in the most critical time of her existence. Whether democracy triumphs or fails much depends upon the decision of America. This time we look again to America to support righteousness and help uphold the will of the Chinese people.

As I have shown in my Manifesto to the Friendly Nations, the so-called Northern and Southern war in China is not a war between the different sections of the country, but a national struggle between militarism and democracy and between treason and patriotism. That the people in the North are sympathetic and are working in cooperation with the South has been demonstrated by the fact that they have spontaneously organized demonstrations and boycotts in order to fight against the foreign oppressor who supports those traitors.

When at the end of the Great War, the Powers advised us to cease fighting and bring about the unification of the country, the South complied by meeting the North at a Conference in Shanghai. The South was ready, for the sake of early restoration of peace, to yield in practically everything on one condition, namely that the Peking Government should repudiate all the secret treaties and, in particular, the Twenty-One Demands of Japan, which were contracted after the illegal dissolution of Parliament, and which was merely the bait offered by the Emperor Yuan Shi Kai for the recognition of his abortive empire. But this simple and just demand of the South was rejected. The South being unwilling to sacrifice national independence for a nominal unification, the Peace Conference came to a deadlock, and the state of war continued.

Furthermore, it was simply the weight of public opinion in China that forced China's delegates to the Peace Conference at Paris to present an appeal for the restoration of Shantung to China. The Northern militarists, however, worked secretly against this appeal for should Japan be forced to return Shantung, they would lose the material support of Japan.

The internal condition of China has gone from bad to worse. While the people of North China are dying by the millions from starvation, plenty of food are cornered immediately around the

¹³ *Ante*, p. 336.

Famine Districts by these militarists for the sake of self-gain. This is proved by the fact that while some foreign philanthropists offered a large quantity of rice to relieve the famine situation, the Chinese Famine Relief Society declined the offer in kind, but requested in its stead the equivalent in money, since plenty of food can be gotten even in the famine areas.

Such is the state of affairs in China that unless America, her traditional friend and supporter comes forward to lend a helping hand in this critical period, we would be compelled against our will to submit to the Twenty-One Demands of Japan. I make this special appeal, therefore, through Your Excellency to the Government of the United States to save China once more, for it is through America's genuine friendship, as exemplified by the John Hay Doctrine, that China owes her existence as a nation. The John Hay Doctrine is to China what the Monroe Doctrine is to America. The violation of this Hay Doctrine would mean the loss of our national integrity and the subsequent partitioning of China. Just as America would do her utmost to keep intact the spirit as well as the letter of the Monroe Doctrine so we in China are striving to uphold this spirit of the John Hay Doctrine. It is in this spirit, therefore, that I appeal to the author of the John Hay Doctrine to befriend the Chinese nation again in this hour of her national peril, by extending immediate recognition to this Government.

With assurances [etc.]

SUN YAT-SEN

MAY 5, 1921.

893.00/3920 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, June 22, 1921—3 p.m.

[Received June 22—10:14 a.m.]

227. Following from Canton:

"June 21, 5 p.m. Hostilities have commenced between Kwangtung and Kwangsi. It is reported that Wuchow is being attacked Kwangtung troops. Ch'en Ch'ung-ming, commander-in-chief of the Kwangtung forces, is at the front".

RUDDOCK

893.00/3902

The Secretary of State to the Consul General at Canton (Bergholz)

WASHINGTON, June 25, 1921.

SIR: The Department has received a despatch (D.No. 258) of May 7, 1921,¹⁴ signed by Vice Consul Price, reporting upon political conditions in the Canton Consular District, and describing the so-

¹⁴ *Ante*, p. 332.

called inauguration of Doctor Sun Yat-sen as President of China. There was enclosed a sealed letter addressed to the President of the United States which the Vice Consul had been asked to transmit. There is nothing in the text of the covering despatch to indicate who the writer of the sealed letter is, or who requested its transmission, but it is assumed that the letter is from Doctor Sun Yat-sen.

The Department is returning the sealed envelope or letter herewith, and you are instructed to see that it is promptly returned to the sender with a proper oral expression of regret at your inability to forward it.

It is also desired that you caution Vice Consul Price against the irregularity of permitting the Consulate General to make itself a vehicle of official communication for an organization in revolt against a Government with which the United States is in friendly relations.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

893.00/3926 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, June 29, 1921—10 a.m.

[Received June 29—6:49 a.m.]

235. Following from Canton:

“June 27, noon. The Government reports capture of Wuchow, details are not available. Kwangtung troops steadily gaining ground in the west, elsewhere doubtful, Americans at Wuchow brought to Hongkong by the British gunboat *Tarantula*.”

RUDDOCK

893.00/3979 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 28, 1921—11 a.m.

[Received July 28—8:30 a.m.]

272. Canton reports Nanning and principal towns eastern Kwangsi captured. Li Lu-ting [*Lu Yung-ting?*]¹⁵ has fled. Recapture Pak-hoi expected daily. Kwangsi practically under control Kwangtung.

RUDDOCK

¹⁵ Inspector General of Kwangtung and Kwangsi.

893.00/4039

The Consul General at Canton (Bergholz) to the Secretary of State

No. 300

CANTON, August 17, 1921.

[Received September 12.]

SIR: I have the honor to acknowledge the receipt of the Department's unnumbered and undated instruction (File No. 893.00/3902)¹⁶ stating that the Department had received despatch D. No. 258 of May 7, 1921,¹⁷ from Mr. Vice Consul Price reporting upon the political conditions in the Canton District and forwarding a sealed letter addressed to the President, which the Vice Consul had been asked to transmit, without, however, indicating in the text of the covering despatch who the writer of the letter is, but that the Department had assumed that the communication was from Dr. Sun Yat-sen. The Department further writes that the sealed envelope or letter will be found as an enclosure and directs me to see that it is, "promptly returned to the sender with a proper oral expression of regret at your (my) inability to forward it".

As directed by the Department Mr. Vice Consul Price has been cautioned against the irregularity of permitting the Consulate General to make itself a vehicle of official communication for an organization in revolt against a Government with which the United States is in friendly relations. It is, however, impossible for me to deliver the letter to the sender who is, as the Department assumes, Dr. Sun Yat-sen, as the envelope has been opened since it was forwarded to the Department and its return to Dr. Sun in that condition would require an explanation from me which I am unable to give. Had the envelope been returned to this office sealed the Department's instruction regarding its delivery to Dr. Sun could easily have been carried out. In view of the positive order of the Department as to the method of the return of the document I do not feel at liberty to use my own judgment in the matter which would be to hand it to Dr. Sun with a statement that since Mr. Price had failed to indicate in the covering despatch transmitting the letter the name of the writer the Department had opened the envelope and upon seeing that it came from Dr. Sun has felt compelled to decline to transmit it to the President of the United States.

Since over three months have passed since the letter was forwarded to the Department and as it will take nearly the same time before the reply to this despatch can be received can not the De-

¹⁶ Dated June 25, p. 339.

¹⁷ *Ante*, p. 332.

partment see its way to let the incident pass into oblivion and to spare Dr. Sun, the one honest and patriotic administrator in China, the mortification of having his letter returned to him.

I have [etc.]

LEO BERGHOLZ

ADMONITION BY THE DEPARTMENT OF STATE TO RESIDENTS IN THE LEGATION QUARTER AT PEKING AGAINST GRANTING ASYLUM TO CHINESE FUGITIVES¹⁸

893.00/3498

The Secretary of State to the Minister in China (Crane)

No. 142

WASHINGTON, *March 10, 1921.*

SIR: The Department has received your despatch of August 2, 1920, and its enclosures, regarding the question of asylum in the Legation quarter in Peking.¹⁹

Article 7 of the final protocol concluded between China and various foreign governments on September 7, 1901,²⁰ provides, as the Legation is aware, that the quarter occupied by the legations shall be considered as one specially reserved for their use and placed under their exclusive control, in which Chinese shall not have the right to reside, and which may be made defensible. Whatever may have been the original intention with respect to the quarter being reserved for the residence of foreign legations to the exclusion of private persons and interests, the Department is aware that from time to time private individuals of various nationalities, including a number of American citizens, have been permitted to reside in the Legation quarter. In view of this situation, the Department, in approving the Legation's instruction of July 28, 1920,²¹ to American residents of the quarter, considers it advisable to instruct the Legation, and through it the American residents of the quarter, in regard to the granting of asylum to Chinese refugees.

It has been the universal practice of this Government to discountenance the granting of asylum by its representatives in foreign countries, as indicated in paragraphs 50 and 51 of the Department's *Instructions to Diplomatic Officers of the United States*,²² with which the Legation is doubtless familiar. The Department considers that

¹⁸ For previous correspondence concerning the granting of asylum in the Diplomatic Quarter, see *Foreign Relations*, 1920, vol. I, pp. 457 ff.

¹⁹ *Ibid.*

²⁰ *Ibid.*, 1901, Appendix (Affairs of China), p. 316.

²¹ *Ibid.*, 1920, vol. I, p. 458; also quoted in draft of letter to American residents in Diplomatic Quarter in Peking, *post*, p. 344.

²² For texts of paragraphs 50 and 51, see draft of letter to American residents of the Diplomatic Quarter in Peking, p. 344.

the paragraphs mentioned, although originally intended only for the guidance of American representatives in foreign countries, should also govern the action of American residents within the Legation quarter at Peking, since the quarter is under the exclusive control of the legations, and the harboring of Chinese refugees within it, whether by the Legation or American residents thereof, would be in contravention of the provision of Article 7 of the Protocol of 1901 that Chinese shall not be permitted to reside within the quarter.

The Legation is particularly cautioned against the giving of assurances in advance to Chinese officials or others that they may be afforded protection within the quarter, should their lives become endangered. The Department desires also to state that whatever may be the practice of the legations of other nations in China with respect to the granting of protection to Chinese refugees, the Department can neither approve nor sanction the extension of this so-called right to such refugees when to do so would result in harboring offenders against the laws of China from the pursuit of the legitimate agents of justice.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

893.00/3964

The Minister in China (Crane) to the Secretary of State

No. 1243

PEKING, June 1, 1921.

[Received July 19.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction of March 10, 1921, No. 142, regarding the question of asylum in the Legation Quarter in Peking. A circular letter based on this instruction, and addressed to American residents in the Quarter, has been drafted and a copy thereof is enclosed for the Department's consideration.

I venture, however, to call attention to the fact that my letter of July 28, 1920, to American residents, which has received the Department's approval in this instruction, is more sweeping in its terms than paragraphs 50 and 51 of the Department's *Instructions to Diplomatic Officers of the United States*, which appear to leave to the Diplomatic Officers a certain latitude of judgment in the granting or denying of asylum. By its present instruction, however, (paragraph 3) the Department appears to be of the opinion that American Diplomatic Officers and American residents in the Quarter are on the same footing and governed by the same rules in the granting

of asylum. To avoid any possible inconsistency, therefore, I would suggest that my letter of July 28, 1920, stand without further commentary and without the issuance of a letter along the lines of the enclosure to this despatch.

I have [etc.]

CHARLES R. CRANE

[Enclosure]

Draft of Letter to the American Residents of the Diplomatic Quarter in Peking

PEKING, _____ 1921.

Pursuant to instructions from the Department of State, Washington, the following views of the American Government regarding the granting of asylum to Chinese refugees by American residents in the Diplomatic Quarter are brought to your attention:

Article 7 of the final Protocol concluded between China and various foreign governments on September 7, 1901, provides that the Quarter occupied by the Legations shall be considered as one specially reserved for their use and placed under their exclusive control in which Chinese shall not have the right to reside, and which may be made defensible. Whatever may have been the original intention with respect to the Quarter being reserved for the residence of foreign Legations to the exclusion of private persons and interests, private individuals of various nationalities, including a number of American citizens, have from time to time been permitted to reside in the Legation Quarter. In view of this situation, the Department of State approves the Legation's notification of July 28, 1920, to American residents of the Quarter which reads as follows:

"July 28, 1920.

To American Residents
of the Diplomatic Quarter,
Peking.

Gentlemen: Owing to the present confused political situation, I have decided that refuge should not be given to Chinese men seeking to hide themselves in the Legation Quarter. All Americans, therefore, who reside in the Quarter are requested not to allow Chinese men from outside to reside in their business offices or dwelling houses. As to Chinese women and children, American residents in the Legation Quarter may use their own discretion.

(Signed) Charles R. Crane,
United States Minister."

It has been the universal practice of the American Government to discountenance granting asylum by its representatives in foreign countries as indicated in paragraphs 50 and 51 of the Department's *Instructions to Diplomatic Officers of the United States*, which read as follows:

[“]50. *Asylum*.—The privilege of immunity from local jurisdiction does not embrace the right of asylum for persons outside of a representative’s diplomatic or personal household.

51. *Unsanctioned Asylum*.—In some countries, where frequent insurrections occur and consequent instability of government exists, the practice of extraterritorial asylum has become so firmly established that it is often invoked by unsuccessful insurgents and is practically recognized by the local government, to the extent even of respecting the premises of a consulate in which such refugees [*fugitives*] may take refuge. This government does not sanction the usage and enjoins upon its representatives in such countries the avoidance of all pretexts for its exercise. While indisposed to direct its representatives to deny temporary shelter to any person whose life may be threatened by mob violence, it deems it proper to instruct them that it will not countenance them in any attempt knowingly to harbor offenders against the laws from the pursuit of the legitimate agents of justice”.

The Department of State considers that the paragraphs mentioned, although originally intended only for the guidance of American representatives in foreign countries, should also govern the action of American residents within the Legation Quarter at Peking, since the Quarter is under the exclusive control of the Legations, and the harboring of Chinese refugees within it, whether by the Legation or American residents thereof, would be in contravention of the provision of Article 7 of the Protocol of 1901 that Chinese shall not be permitted to reside within the Quarter.

The Department of State particularly cautions against the giving of assurances in advance to Chinese officials or others that they may be afforded protection in the Quarter, should their lives become endangered. The Department of State desires also to state that whatever may be the practice of the Legations of other nations in China with respect to the granting of protection to Chinese refugees, the Department can neither approve nor sanction the extension of this so-called right to such refugees, when to do so would result in harboring offenders against the laws of China from the pursuit of the legitimate agents of justice.

You are requested to take note of the foregoing and to be governed accordingly in the event that the question of granting asylum to refugees within the Legation Quarter should at any time arise.

893.00/3964

The Secretary of State to the Chargé in China (Ruddock)

No. 286

WASHINGTON, August 31, 1921.

SIR: The Department is in receipt of the Legation’s despatch No. 1243, of June 1, 1921, enclosing a copy of a draft of a circular letter addressed to American residents of the Diplomatic Quarter in Pe-

king, regarding the granting of asylum to Chinese refugees in the Legation Quarter. You suggest that your letter of July 28, 1920, stand without further commentary and without the issuance of a letter along the lines of the enclosure with your despatch.

The Department considers that American residents of the Legation Quarter in Peking should be informed of its attitude concerning the granting of asylum therein to Chinese refugees, and requests that a communication along the lines of the draft enclosed with your despatch be addressed to American residents of the Quarter, in accordance with the Department's instructions of May [*March*] 10, 1921.

I am [etc.]

For the Secretary of State:

F. M. DEARING

FINANCIAL EMBARRASMENTS OF THE CHINESE GOVERNMENT

893.51/3533 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, *October 22, 1921—4 p.m.*

[Received 7:55 p.m.]

367. My telegram 361, October 18, 8 p.m.²³ Financial situation desperate, Government and bankers implored Inspector General Customs save situation. He declared himself powerless and laid situation before English, French, Japanese Ministers and myself as representatives of consortium powers. We five had long conferences 20th and 21st. Official figures finances confidentially presented. Ignoring big debts secured by customs and other revenues, successive governments have rolled up debt of 364,000,000 which is all practically unsecured. Foreign creditors are: Japanese 148,000,000, British 24,000,000, French 22,000,000, American 20,000,000, others one and a half millions. Purposes of loans were: military 66,000,000, whereof 45,000,000 Japanese and 20,000,000 British, naval 1,750,000, [educational,] industrial and commercial 47,000,000, whereof 25,000,000 Japanese, mining and forestry loan, and 14,000,000 "Banque Industrielle", Pukow industrial loan, railway development 43,000,000 nearly all Japanese, telegraph 12,000,000 Japanese overdue interest 8,000,000, unspecified 34,000,000 including Chicago Bank and Pacific Development together 18,750,000.

Interest 8 percent on unsecured debt of over 29,000,000. This exceeds total receipts for a year at the disposal of Central Govern-

²³ Not printed.

ment as estimated last April by Chow Tzu-chi, Minister of Finance. Inspector General Customs says salt revenue has decreased about 50 percent to 42,000,000 whereof fourteen pledged for consolidated debt: wine and tobacco may yield 3,000,000; land tax, nothing assured from customs which however at present has accumulation of 15,000,000.

Successive governments have lived on loans using borrowed money as income. Having pledged all sources of revenue they can borrow no longer, receipts are insufficient to pay interest on debt, there is nothing for administrative expenses, collapse is inevitable, no government that might be set up could live. Present Government avoiding public acknowledgment of complete insolvency. Were above facts generally known financial panic would probably ensue as Government has over 40,000,000 unsecured short-term loans with native banks, to say nothing of 22,000,000 native bank advances and 18,000,000 native bank advances on the strength of salt surplus which is now a meaningless expression.

Privately, Finance Minister acknowledges desperate situation. Minister for Foreign Affairs told me [at] weekly reception that action [*actual?*] Government problems were simple in comparison with finances and that powers would have to consent to revision of tariff to prevent disappearance of Central Government. To colleague who followed me he repeated this statement and added present Government might [apparent omission] with or without disorder. Prime Minister's resignation due primarily financial embarrassment and although withdrawn this week Minister for Foreign Affairs dining here last night told me withdrawal only temporary.

Government will almost certainly bring tariff law question before Washington Conference. Our conference yesterday were unanimously of opinion that if Conference acceded to request some form of effective control over proceeds derived therefrom should be instituted. I said that such control should be agreed upon between Chinese Government and the powers and [need not be] mainly foreign. Another suggestion was to vest control in trust composed of Minister of Finance, Inspector General Customs and Chinese Bankers' Association. Japanese Minister did not express himself favorably to either suggestion and thought that detail might be left to Governments. Without some control it is feared that increase of revenues producing revival of credit would immediately set borrowing going again.

We considered eventualities in case collapse Government. Unpaid soldiers and police seeing all hope of pay gone might loot city, especially as soldiers are largely coolies and former bandits. Foreigners' places of business and isolated houses might be looted. Military con-

trol however would soon be [established and] as there is no anti-foreign sentiment life should be secure. Have consulted with General Kernan²⁴ who just arrived Peking, and he thinks Chinese military authorities will also complete plans for protecting city in case of looting and disorder. I concur in this opinion. Legation guard give added sense of security.

SCHURMAN

893.51/3536 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, October 26, 1921—noon.

[Received 4 p.m.]

371. In connection with conference discussions I submit following:

My 367, October 22, 4 p.m. It is how to save Chinese Government, not this Government or substitute but any central government in China. Three conditions seem essential: more revenues, retrenchment expenditures including disbandment soldiers, unification of country. Last reserved for later report.

Met Premier and Minister of Finance dinner Chinese bankers 22nd and had long talk. They chased rainbows but finally admitted present financial situation as described my 367, October 22, 4 p.m. Premier complacently interpreted diminishing expenditures as demonstration retrenchment by his administration. Declared customs revision necessary and suggested increase of one-half existing tariff. Premier said that if tariff were thus increased entire customs revenue would be devoted to service of all foreign obligations and foreign supervision accepted while Chinese non-governmental supervision would be agreed to over all other governmental finance.

Foreign merchants including American will oppose tariff revision, but China, in spite of failure to carry out likin obligations and afford protection and due assistance to foreign trade, appears to have a certain [apparent omission] to tariff increase even if temporary and increased revenues are essential for carrying on any central administration. Commercial attaché thinks American merchants could be educated to this view. Department's 229, August 17, 4 p.m.²⁵ Minister for Foreign Affairs told me yesterday Chinese Government not supporting Japanese proposal for 25 percent hoping for 50 percent increase.

Tariff revision will take time especially as China wants substitute for present antiquated *ad valorem* tariff, one based on scientific

²⁴ Maj. Gen. Francis J. Kernan, U.S. Army, Commander of the Department of the Philippines.

²⁵ Not printed.

economic principles with different rates on necessaries and luxuries. Hence some emergency finance measure necessary. Inspector General Customs has at the request of Chinese Government devised tentative scheme which Ministers consortium nations have already considered.

Scheme provides for surcharge 20 percent on present Maritime Customs collections—would yield 14 million dollars as present 10 percent famine relief surtax yields 7 millions.²⁶ Income would cover issue of 50 million 8 percent bonds repayable 10 million annually five years. Aglen²⁷ believes bonds readily taken in China at par. Loan would extinguish charges with accrued interest on salt surplus leaving \$42,000,000 annually unencumbered. This surplus would have to be controlled otherwise it would be pledged again. Inspector General concludes,

“The Chinese Government is now, I believe, ready to accept control of the treasury in the form of a trust vested in the Chinese Bankers' Association and the Inspector General of Customs. All Government cash receipts would be paid into the treasury thus controlled and all payments would be made under joint authority of the trust. The Ministries would be strictly rationed to a monthly sum which would not be exceeded and no pledging of the Government receipts would be valid unless authorized by trust. It is believed that this would have the effect of putting a stop to borrowing and the economical handling of such funds as exist would make them go further than at present. A scheme of this kind would, it is believed, institute an effective control without raising an uproar in China”.

Ministers consortium nations all agreed that unless permanent measures financial relief through tariff revision or otherwise are contemplated, foregoing plan should be rejected as merely temporary expedient postponing but not preventing inevitable crash. Otherwise they have not expressed themselves on plan except regarding necessity of some effective control. I am however disposed to accept Inspector General's view that his scheme of financing and control might possibly prevent collapse Central Government pending some sort of tariff increase and adoption more general and permanent plan of rehabilitation Chinese finances by consortium or otherwise for which it would pave the way. British Minister shares this opinion and so reports to his Government. The alternative to financial relief is culmination of governmental chaos.

Present Peking government very unpopular throughout country. Any scheme to save China seems to bolster it up which is unfortunate but perhaps unavoidable. Canton becoming more important

²⁶ See *Foreign Relations*, 1920, vol. 1, pp. 727 ff.

²⁷ Sir Francis A. Aglen, Inspector General of the Chinese Maritime Customs.

factor in national affairs though I cannot say whether this is due most to Governor Ch'en's excellent administration or Sun Yat-sen's campaign against President Hsu and reactionary Peking administration coupled with insistence on a federated constitutional government which in my opinion is the solution of China's problem.

Learn Chinese Government will submit Inspector General's scheme to diplomatic body in a few days.

SCHURMAN

893.51/3533 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, October 27, 1921—5 p.m.

288. Your telegram 367, October 22, 4 p.m. By whom was suggestion made that control over proceeds of increased customs duties should be vested in Minister of Finance, Inspector General of Customs and Bankers' Association?

HUGHES

893.51/3538 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, October 29, 1921—11 p.m.

[Received October 29—3:40 p.m.]

377. Your 288, October 27, 5 p.m. Suggestion in question advanced by the Inspector General of Customs and apparently borrowed by him from his memorandum suggesting measure for emergency financial relief as fully described in my telegram 371, October 26, noon.

SCHURMAN

893.51/3539 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, October 31, 1921—5 p.m.

[Received October 31—9:55 a.m.]

378. My 371, October 26th, noon. Inspector General's scheme had been approved by the President, Premier, Minister for Foreign Affairs and others, and on 28th Chinese text was ready for submission to Cabinet on 29th with no change except omission of last sentence. To-day it transpires scheme was not submitted and has meanwhile been laid aside. Inspector General of Customs suggested that this result presumably connected with appointment of new Minister of Finance.

SCHURMAN

893.51/3569 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 11, 1921—2 p.m.

[Received November 11—11:41 a.m.]

391. My 388, November 10, 1 p.m.²⁸ Proposed loan for administrative purposes would merely postpone public acknowledgment governmental insolvency. Signs of collapse forecast. my 367, Oct. 22, 4 p.m., increase. Chinese newspapers anxiously discussing financial situation and bankers manifesting uneasiness. Peking judges threaten strike, also clerks in Government departments if salaries in arrears some months not paid. Ministers War, Navy, Justice, handed in resignations; Premier desires to quit. Desperate efforts will be made to stave off climax till after close of Washington Conference.

SCHURMAN

893.51/3579 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 16, 1921—midnight,

[Received November 17—1:37 a.m.]

403. Runs on Peking, Tientsin and Shanghai branches Bank of Communications and Bank of China began yesterday. First bank more serious. Peking branches both banks refuse to cash more than \$10 per person of bank notes offered. Small exchange banks no longer permitted to accept notes of these two banks against cases payment up to \$5,000, as is usual practice, but holders referred to offices two banks. Railways and other governmental agencies still accepting notes. Impossible to estimate amount outstanding notes or general condition two banks.

Minister for Foreign Affairs discussed situation very anxiously last night at special gathering separately with Ministers Great Britain, Japanese Chargé d'Affaires, France and myself. Said situation was serious and would, if unchecked, probably extend to smaller Chinese banks and possibly commoner banks. Cabinet had considered matter and wanted to get release portion of accumulated customs reserve, now about 15,000,000. Said money releases would be paid to banks to enable them to tide over crisis. Vice Minister of Finance visited Chinese Secretary today and urged favorable action. I understand Department's position is that Chinese Government is entitled to entire reserve in so far as it is not

²⁸ Not printed.

needed to cover service of Boxer and pre-Boxer obligations. Minister for Foreign Affairs stated to me confidentially that Hongkong Bank, which is depositary of these funds, would probably be unable to meet such a sudden call for payment of this sum. Chinese Government willing, however, to accept Hongkong Bank's assurances of early payment which would reassure native banks.

Minister for Foreign Affairs said Cabinet was again considering Aglen's scheme 50,000,000 customs loan, reported my 371, October 26, noon, and would submit it forthwith to the diplomatic body for approval, having substituted for Aglen's plan of control audit board with foreign representatives. I should be glad of instructions as to the attitude to be taken.

Minister for Foreign Affairs said Government could not go on without funds. I suggested possibility loan from consortium. He replied consortium would not lend till China reunited and that reunification might take years.

I concur in general opinion that only outside financial assistance can maintain present puppet government and no worse consequences are to be apprehended from its collapse than hastening temporary local disturbances and looting from unpaid soldiers and police.

Many, especially British, regard the present as opportune time for China's financial collapse in view of meeting Washington Conference. It is generally assumed Conference must arrange financial rehabilitation China.

Northcliffe here keenly following situation.

SCHURMAN

893.51/3634

The Chinese Legation to the Department of State

TELEGRAM FROM THE WAI CHIAO PU DATED NOVEMBER 16, 1921

The Government, on account of the tightness of the money market, proposes to draw out of the surplus of the Maritime Customs receipts, after providing for the securities to various loans and indemnity payments, the sum of six million Shanghai taels for the purpose of sustaining the market.

The Ministry has already informed the foreign representatives and requested their consent. It is desired that cable instructions be sent by the American Government to the American Minister at Peking to give a favorable reply.

WASHINGTON, November 17, 1921.

893.51/3580 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 17, 1921—midnight.

[Received November 17—9:15 p.m.]

407. My 404 [403], November 16th, midnight. Meeting of diplomatic corps called for 18th to consider request of Chinese Government to dean dated 16th to secure immediate consent of interested legations to earliest possible release of 6,000,000 taels from surplus of receipts of Maritime Customs after deduction therefrom of service, redemption of loans, and payment of indemnities and to notify Inspector General to make prompt remittance accordingly. Dean circularizes following memorandum of Inspector General dated the 17th:

“To relieve the panic which is causing a run on the Bank of China and Bank of Communications, the Government proposes to liquidate part of its very large overdraft on the above two banks by drawing on the Maritime Customs balances in the Inspector General's hands and has instructed the Inspector General to hand over to the two banks a sum of \$6,000,000.

When entrusting the Inspector General with the service of the consolidated silver debt the Government definitely assigned the balances of the Maritime Customs to the formation of a sinking fund for the protection of the bondholders. These balances are therefore a trust vested in the Inspector General and they cannot be drawn on for any other purpose.

Up to the end of the month of October the special funds assigned for the service of the consolidated debt have been duly accounted for. There is, however, no certainty that these funds will continue to be received and in these circumstances the consolidated debt service will have to be supported by drawing on the sinking fund.

Bondholders, Chinese and foreign, have subscribed to these loans on the strength of the guarantee offered by the management of the debt service being in the Inspector General's control and it would constitute a breach of trust were any portion of the sinking fund diverted.

In these circumstances the Inspector General proposes to disregard the instructions of the Government which cannot be carried out without involving him personally in both [*sic*].

As the Government has applied to the diplomatic body for a release of the customs balances following the precedent of the years 1919 and 1920 before the sinking fund was created and sanctioned by Presidential mandate, the Inspector General ventures to submit this memorandum to His Excellency the *Doyen* for the information of his colleagues (signed) F. Aglen, Inspector General.”

For details of this arrangement for sinking fund see my despatch number 62, October 5th.³⁰ I suggest above information of interest to American delegates conference.

SCHURMAN

³⁰ Not printed.

893.51/3580 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, November 18, 1921—6 p.m.

300. Your 403, November 16, midnight, and 407, November 17, midnight.

Department understands that the accumulated customs reserves in the hands of the Chinese Government as indicated by the reference thereto by the Inspector General represents a trust separate and distinct from that which was created by the Agreement of 1912 which established the International Bankers Commission and guaranteed the payment of the indemnity and pre-Boxer pledges.³¹ If this understanding is correct, it would appear that the sinking fund trust thus provided for and now in the hands of the Inspector General was created wholly by the Chinese Government without the participation of the foreign powers, and in that case this Government does not feel warranted in giving or withholding sanction of the modification now proposed by the Chinese Government.

HUGHES

893.51/3586 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 19, 1921—4 p.m.

[Received November 19—9:47 a.m.]

408. My 407, November 17th, midnight. Following summary of reply [to] Minister of Foreign Affairs:

Diplomatic body is quite disposed to render all possible assistance but it understands that Inspector General not in a position to agree to release such surplus, as by Presidential mandate March 3d last all customs surplus has been designated to be set aside as a sinking fund for consolidated internal loan service under control Inspector General, consequently transfer of funds to other purposes would constitute serious breach of trust to the general bondholders. Under the circumstances diplomatic body unable to see way to remove such technical difficulty which exists within the administration of the Chinese Government and to notify Inspector General as requested.

SCHURMAN

³¹ For text of arrangement, see MacMurray, *Treaties and Agreements with and concerning China*, vol. II, p. 946.

893.51/3585 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 19, 1921—6 p.m.

[Received November 19—9:30 a.m.]

409. My 403, November 16th, noon [*midnight*]. Continue, payments by the two banks virtually ceased, governmental agencies still accepting notes. Hsu Un Yan [*Hsu En-yuan?*³²] informs me this is the most severe panic on record. All silver has disappeared from circulation, business at a standstill, Cabinet discussing moratorium.

SCHURMAN

893.51/3592 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 23, 1921—6 p.m.

[Received November 23—10:53 a.m.]

414. My 409, November 19, 6 p.m. Distinct relaxation of crisis observable as a result of psychological factors although fundamental facts little changed. Change arises in part from arrival of funds, including about three-quarters of a million dollars from Chang Tso-lin but not yet released by him to the banks, plus assistance from Chinese Bankers' Association, in part from spread of patriotic sentiment to rally in support of these Chinese banks against supposed machinations foreign banks to injure Chinese banks during the Washington Conference as alleged in native press.

SCHURMAN

ORGANIZATION OF A NEW INTERNATIONAL FINANCIAL CONSORTIUM³³

Tentative Definition by the American Group of the Scope of the Consortium's Activities—Formation of an Advisory Council of the Consortium—Suggestion by the Department of State that the American Group Dissociate Itself from Any Proposal for the Administration of the Chinese Land Tax—Canadian Project for an Extra-Consortium Loan—Negotiations Relating to the Admission of an Italian Group

893.51/3181 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 9, 1921—noon.

[Received January 9—4:40 a.m.]

15. For Legation and American business men in China. Request information regarding consortium as follows:

³² Vice President of the Chinese American Bank of Commerce.

³³ Continued from *Foreign Relations*, 1920, vol. I, pp. 497-605.

1. *Scope.* Does consortium debar private initiative from construction all of the communication transportation including railways, roads, canals, telegraphs, telephones, aeroplanes, et cetera, also large commercial and industrial joint undertakings, such as rumored tobacco partnership, as reported in my 472 December 31 [30], 1 p.m.⁸⁴

2. *Bond issue.* Is consortium unaffected if to obtain necessary funds to finance an enterprise a bank abroad should accept Chinese Government bonds and upon them float loan or increase its capital stock? Would it make any difference if China's obligations were issued in the name of a specific bank or corporation abroad rather than in freely negotiable form? Where is the line between public and private flotation to be drawn?

3. *Size of undertakings.* Is consortium interested in undertakings of all sizes? If not, what size is outside its scope?

Stevens⁸⁵ unable to answer above. It is hoped that consortium will not discourage American private commercial initiative in China.

CRANE

893.51/3202

The American Group to the Acting Secretary of State

NEW YORK, *January 17, 1921.*

[Received January 18.]

SIR: Replying to the Department's letters of January 13th, (FE-893.51/3181), and January 15th, (FE-893.51/3192),⁸⁶ the former inquiring on behalf of the Legation at Peking for specific information about the proposed activities of the Consortium, and the latter transmitting to Mr. Lamont⁸⁷ the confidential message from Mr. Stevens, the American Group is of the opinion that both these inquiries are closely correlated and therefore it offers for transmission to the Legation and to Mr. Stevens the following message.

This you may think covers the ground more fully than is necessary, but the principles involved are so important, and it is so necessary that the Legation should be fully conversant with them, that we hope you will be able to transmit the substance of the message which follows:

1. Consortium has no power, and would in no event wish, to curb private initiative. Consortium and individual group agreements provide that members shall invariably offer to Consortium for its consideration any propositions coming to them involving public issues of Central or Provincial Governments. Groups are so constituted that, with probably unimportant exceptions, each national group includes all institutions or firms in a position to undertake

⁸⁴ Not printed.

⁸⁵ Frederick W. Stevens, representative of the American group.

⁸⁶ Neither printed.

⁸⁷ Thomas W. Lamont, member of firm of J. P. Morgan & Co.; Acting Chairman of the Managing Committee of the American group.

financing of such great public utilities as transportation, etc. It was therefore felt, in effect, such propositions would naturally go to Consortium for handling. It was also believed that the Chinese Government would in all such great projects find it greatly to its advantage to deal with one strong body like the Consortium, representing the large investment interests of the countries involved. The Consortium has never planned to undertake industrial or commercial projects, such as manufacturing, merchandising, shipping, etc. These belong to the field of private endeavor which ought to be able to deal with them adequately, especially if larger operations of the Consortium result in establishing better means of communication, sounder economic conditions, etc., thus furnishing a better and safer field for private foreign initiative.

2. If any such bank were a member of a group being part of Consortium, of course it would have no right to undertake any enterprise involving Chinese Government or Provincial bond issue without the acquiescence of its national group and the Consortium. If group, or Consortium, declined such proposition, then the individual bank would be at liberty to proceed alone. In considering this matter Consortium makes no vital distinction as to particular form of Chinese Government or Provincial obligations. The phrase itself draws the issue between public and private flotation; but it is too soon to try to define the limits precisely.

3. Consortium has yet attempted to establish no particular limitations. Any public utility enterprise manifestly appealing to both Chinese Government and Consortium's experts as constructive, sound, and in China's interests; being at the same time a public enterprise to the end that the Government, or any one of the provinces, directly or indirectly issues its obligations in payment of the funds therefor, should be undertaken by the Consortium, as security market conditions permit. Personally, Mr. Lamont can hardly imagine any enterprise involving the expenditure of less than \$1,000,000 being of sufficient public importance to warrant the functioning of all the Consortium machinery; and he believes that in practice the chances are that the Consortium would seldom, if ever, find itself making a public issue for an amount under five or ten million dollars. No objection has ever been offered to the extension of temporary credit accommodations to the Chinese Government by depositary banks, such being routine over-the-counter transactions; but should the size or aggregate of such transactions arouse inquiry as to their *bona fides*, then the Consortium might wish to reverse its general attitude on that point.

In general, refer you to American Group Agreement,³⁸ Consortium Agreement,³⁹ Paris⁴⁰ and New York⁴¹ Minutes.

Respectfully,

J. P. MORGAN & Co.
For the American Group

³⁸ *Foreign Relations*, 1918, p. 185.

³⁹ *Ibid.*, 1920, vol. I, p. 576.

⁴⁰ Paris minutes not printed. For resolutions adopted at Paris meeting, see telegram no. 413, May 20, 1919, from the Ambassador in France, *ibid.*, 1919, vol. I, p. 435.

⁴¹ *Ibid.*, 1920, vol. I, p. 581.

893.51/3230

*The American Group to the Secretary of State*NEW YORK, *February 1, 1921.*

[Received February 2.]

SIR: Referring to our letter to you of Jan. 17th, in which were set forth *seriatim* replies to the points raised in the Peking telegram of Jan. 9th with reference to the scope, etc., of the new Consortium, we would be very glad to have you insert at the end of our letter of the 17th the paragraph given below, and transmit our reply, as thus amended, by pouch (or mail, if more convenient), rather than by cable, as at first suggested ⁴²:—

Of course, nobody can write a detailed program and charter for the Consortium. We shall, I hope, adhere to our purpose of developing things basically in China in the knowledge that private enterprise may enjoy wider opportunity and greater stability. The policy as to particular questions and concrete enterprises will have to be determined as those questions present themselves.

Respectfully,

J. P. MORGAN & Co.
For the American Group

893.51/3329

*The American Group to the Secretary of State*NEW YORK, *March 10, 1921.*

[Received March 12.]

SIR: In view of the recent change in the Administration at Washington, we beg to request that you will, at your convenience, inform us as to whether the policy of the Department, up to the present time, in encouraging American interests in the assistance of China through the operations of the International Consortium, is in accord with your own views and therefore receives your approval.

The officials of the Department will undoubtedly inform you from the record that the principle involved in cooperative effort for the assistance of China was approved by the Department under Secretary of State Knox. Secretary Bryan, however, upon taking office adopted a different point of view, and the American Group thereupon withdrew from the then Consortium.

In June 1918 the Department reconsidered the matter and suggested the formation of a new American banking group made up

⁴²The reply of the American group as amended was transmitted to the Minister in China in despatch no. 130, Feb. 11, 1921 (file no. 893.51/3202).

upon a broader basis than before. Such a banking group was organized, now comprising between thirty and forty members including practically all of the leading institutions and banking firms showing any interest in the Far Eastern situation. (A list of these members ⁴³ appears on this letterhead). Upon the tentative formation of the American Group, the Department requested the Governments of Great Britain, France and Japan to encourage the organization of similar groups in the countries mentioned in order to form an international consortium or partnership. The Governments in question having approved in general the principle set forth in the Department's memorandum, a meeting for the purpose of organizing the Consortium was convened at Paris in May 1919. The tentative organization effected at that time was not then completed owing to the insistence of the Japanese Government that the Japanese banking group make certain reservations as to the exclusion from the operations of the Consortium of certain portions of Mongolia and Manchuria.

The Japanese Government still maintaining its attitude on this point, Mr. Lamont, representing the American banking group and in effect the British and French Groups, and with the approval of the Department, last year visited Japan and China. There in cooperation with the Department's representatives a formula was arranged under which Japan withdrew the reservations in question. Thereupon a meeting of the various national group representatives was held in New York last October, resulting in the final formation of the Consortium, following which a statement of its scope and purposes ⁴⁴ was issued with the approval of the Department, and of the British, French and Japanese Foreign Offices.

The Department, in conjunction with the British, French and Japanese Foreign Offices, has just formally notified the Chinese Government of the formation of the Consortium, and has furnished to it copies of the Consortium Agreement. The Consortium has as yet received no formal application for a loan or loans from the Chinese Government, and in the present state of the financial markets of the world hopes that China's needs will not call for any early loan.

In closing, we should make clear the fact that the operations of the Consortium are in no way designed to interfere with the private initiative of our nationals or those of any other country. On the contrary, the Consortium does not plan to undertake any mercantile, industrial, or banking projects. The plan is simply to help China

⁴³ Not printed.

⁴⁴ For text of statement, see telegram no. 405, Nov. 2, 1920, to the Chargé in Japan, *Foreign Relations*, 1920, vol. I, p. 591.

in the establishment of her great public utilities such as the building of her railways, canals, etc., thereby assisting in stabilizing China economically and financially, and making that field a safer one for the initiative of our citizens in private enterprises in commerce, industry, etc.

If there are any points in the foregoing brief summary that are not perfectly clear to you, or if at any time you desire to confer with a representative of the American Group, Mr. Lamont will be glad to proceed to Washington.

Respectfully,

J. P. MORGAN & Co.
For the American Group

893.51/3336

Mr. Thomas W. Lamont to the Secretary of State

NEW YORK, *March 11, 1921.*

[Received March 12.]

DEAR MR. SECRETARY: I hand you herewith letter from the American Group of the Chinese Consortium,⁴⁵ the initial draft of which I showed to you yesterday in your office. You are probably well aware of the fact that both in China and in this country a certain effort is now being made to defeat the Consortium, largely by methods of misrepresentation. There are large numbers of so-called vernacular newspapers published in China owned by Japanese interests, and these have been conducting a vigorous propaganda against the Consortium. Of course, I do not have to tell you that the investment interests represented in this effort have in the first instance undertaken this plan at the express approval of their respective governments, and as a measure of public service. While, of course, if loans are finally undertaken to China for constructive purposes they must be on a basis showing a fair interest return and a fair commission for handling; yet strictly on its merits, the investment groups would have preferred at the present time to undertake no responsibility in the matter. They have, however, undertaken a degree of responsibility, and very large initial expense, by reason of their belief—as more than once pointed out by the Department—that such a course would conduce to the upbuilding of general American interests in the Far East.

Sincerely yours,

THOMAS W. LAMONT

⁴⁵ *Supra.*

893.51/3329

*The Secretary of State to the American Group*WASHINGTON, *March 23, 1921.*

GENTLEMEN: I have received the letter of March 10, 1921, in which you request that I advise you whether the policy of the Department of State, in encouraging American interests in the assistance of China through the operations of the international Consortium, is in accord with my views and therefore receives my approval; and in which you state that the operations of the Consortium are in no way designed to interfere with the private initiative of our nationals or those of any other country, that it does not propose to undertake any mercantile, industrial or banking projects, but plans only to help China in the establishment of her great public utilities such as the building of her railways, canals, et cetera, thereby assisting in stabilizing China economically and financially, and making that field a safer one for the initiative of our citizens in private enterprises in commerce, industry, et cetera.

In reply I am happy to advise you that the principle of this cooperative effort for the assistance of China has the approval of this Government, which is hopeful that the Consortium constituted for this purpose will be effective in assisting the Chinese people in their efforts towards a greater unity and stability, and in affording to individual enterprises of all nationalities equality of commercial and industrial opportunity and a wider field of activity in the economic development of China.

I am [etc.]

CHARLES E. HUGHES

893.51/3337: Telegram

*The Minister in China (Crane) to the Secretary of State*PEKING, *March 29, 1921—1 p.m.*

[Received March 29—10:13 a.m.]

133. Legation's 15, January 9, noon. It is necessary for protection of American interests that Legation be advised definitely consortium scope especially loans to existing railways.

British are insisting that agency provisions in existing loans rigidly apply and are awarding business to British first without considering American bids.

They are also preparing to make additional loans which in principle and practice will perpetuate existing agencies indefinitely.

Advise if loans to existing railways come in scope of consortium when issued following purposes and if so what is minimum amount and if issued securities can be sold by public flotation: (1) Betterments, example, Yellow River bridge, necessary loan in excess of gold dollars five million; (2) for certain property additions, example, Peking-Mukden double track loan in excess of gold dollars two million; (3) additional equipment, example, Peking-Suiyuan loan in excess of gold dollars three million; (4) extension, example, Peking-Suiyuan loan in excess of gold dollars three million.

Unless such loans are restricted to conform to the spirit and letter of the consortium agreement they can be made to extend present control of railways indefinitely.

Japanese are offering loans for Peking-Hankow Yellow River bridge which unless restricted will involve control of these lines.

CRANE

893.51/3354 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, April 5, 1921—2 p.m.

[Received April 5—2:17 p.m.]

143. Your 102, March 29th, 5 p.m.⁴⁸ British Legation with this Legation feels very strongly need for more precise definition of scope of consortium activities. The information thus far available does not give answers to questions in my 15, January 9th, noon, and 133, March 29th, 1 p.m. These and other similar questions come up daily in concrete form and require early settlement to assure success of consortium and prevent friction among its members. British Legation inquires whether American principle of Open Door and equal opportunity is to operate to dispossess established foreign interests in China such as railways, mines, telegraphs, et cetera, even those of preferential character like Marconi contract,⁴⁹ thus depriving foreign, for instance British, pioneering enterprises in China of initial advantages gained over competitors. It is respectfully suggested that the consortium Legations Peking might profitably be taken into consultation in formulating answers to questions above referred to bearing in mind always that China has not approved consortium. For example, British Legation is astonished to learn that Addis,⁵⁰ without consulting Peking, has offered to the consortium double tracking of Peking-Mukden line. British Legation is concerned to know what Chinese Government may say to this. This Legation is also interested in this matter as affecting the attitude of China toward the consortium.

CRANE

⁴⁸ Not printed.

⁴⁹ See footnote 5, p. 408.

⁵⁰ Sir Charles S. Addis, representative of the British group.

893.51/3369

The Secretary of State to the American Group

WASHINGTON, April 29, 1921.

GENTLEMEN: With reference to your letter of the twelfth instant⁵¹ with which you transmit minutes of the inter-group meeting held in London on January 30, 1917,⁵² to which meeting reference was made in minute XI of the conference of group representatives at New York last October,⁵³ the Department desires to direct your attention to the implications which might be construed to attach to minute XI of the October meeting when read in connection with resolution No. 3 of the inter-group conference of January 20 [30], 1917,—particularly as regards the proposed taking over of the Chinese Land Tax by the Consortium, and its reorganization under a foreign chief inspector of Japanese nationality. It is noted that the inter-group conference of January 30, 1917, decided to submit their resolutions to their respective principals for approval; but it is not known whether this was actually done, or whether such approval was given. The Department desires to be informed more in detail on these points, and would also like to know whether the question was ever submitted for the approval of the interested Governments.

In this connection the Department would suggest that, in view of the intimate relationship existing in China between the administration of the tax on land, and the internal affairs of the country, it may be wise for the American Group to consider whether it should not take steps to dissociate itself from any proposal to administer that tax.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

893.51/3390: Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, May 2, 1921—6 p.m.

130. Your 133, March 29, 1 p.m. Following from Lamont who is now in London:

“Have conferred with British Group which is in accord with the following definitions;

1. Loans to existing railways fall within the scope of Consortium when they involve the issue of a public loan. The public issue is the determining factor (see Consortium Agreement⁵⁴).

⁵¹ Not found in Department files.

⁵² Not printed.

⁵³ *Foreign Relations*, 1920, vol. I, p. 585.

⁵⁴ *Ibid.*, p. 576.

2. View of British as to agency provisions seems to me tenable. As long as the concessionaire has existing agency arrangements and does not resort to issue of public loan the Consortium cannot intervene.

3. I have no knowledge of additional loans except possible extension of Tao-Ching line from Chinghua to Menghsien. Any public loan required by such extension would fall within the scope of Consortium.

4. Yellow Bridge loan: This would undoubtedly fall under the scope of Consortium; in fact in connection with this project American contractors and suppliers of material, assuming that they secure the contract, have offered the financing thereof consisting of four million dollars Chinese Government notes to Consortium through American Group which, however, has not accepted same, notes not being of a nature to appeal to present American market.

5. Peking-Mukden. No public issue is contemplated but private advance has been arranged which British Group, in accordance with spirit rather than letter of Consortium Agreement, have offered to other Groups. French and Japanese Groups have taken share. American Group has not, seeing no present advantage to be gained therein.

6. Peking-Suiyuan line is, I am informed, Chinese owned. If any public foreign issue were to be offered in connection with it same would come within scope of Consortium.

In general as already explained it is quite impossible at this stage of Consortium progress always to render absolute definitions nor is it possible to lay down precisely what constitutes a banking advance. We must leave the amount in general to be determined by the natural limit set to private as contrasted with public issues. So long as public issue is not involved it is not the policy of the Consortium to discourage or obstruct the free flow of foreign capital to China or the development, so far as is possible, of the railways of China out of their own earnings. Consortium's decision to recognize in principle that railways should not be handled sectionally and its proposal for the establishment of a standing committee or board to be charged with the supervision and control of all Chinese Government railways are evidences of the ultimate Consortium aim. But until the board is established it would be alike premature to hurry the process and unwise in the interim to place restriction upon their independent processes."

The above is an expression of Mr. Lamont's own views, which the Department communicates with all reserves, noting particularly that it still has under consideration the question whether the Yellow River Bridge project falls within the scope of Consortium activities.

HUGHES

893.51/3412 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 14, 1921—noon.

[Received 7:31 p.m.]

332. Lamont sends following for your information and transmission to American group in New York:

“The British and French banking groups of Chinese consortium suggest passage of following resolution by all groups and same is submitted herewith to American group for its approval.

1. The inclusion within the scope of the consortium of all industrial contracts which involve a public issue in markets outside of China may give rise to questions which have an international bearing of such a character that they might usefully be subjected to examination by the consortium.

2. For this purpose it is proposed to form a council composed of delegates of which one shall be nominated by each of the groups.

3. The council shall have no executive powers. Its functions shall be consultative and advisory to examine any questions submitted to it and to report thereon.

4. The ordinary meetings of the council shall be held at regular intervals but not less than three times a year. Extraordinary meetings shall be convened at any time on the demand of the delegates. Notice of any questions to be placed on the agenda paper of the next meeting shall be given in writing to the central agency of the consortium at least one week in advance.

This plan of more frequent conference by groups was suggested in personal conversation in London by Sir William Tyrrell of Foreign Office to Addis and Lamont. Tyrrell felt that if consortium meetings were held irregularly and only at long intervals when some one matter of pressing importance brought the delegates together they would lack touch and to make the international group a really effective one in carrying out the purposes originally outlined by American Government and cordially concurred in by the other governments more frequent stated meetings should take place. Probably these meetings will be held alternately in New York, London, Paris, making at least three per annum. Tyrrell added that while this was in no sense a Foreign Office suggestion yet his personal view was that more frequent meetings would be helpful to the general political situation in the Far East. Addis and Lamont cordially concurred in plan and so does French group. French Foreign Office has, Lamont understands, also expressed itself cordially in the matter to French group. The memorandum above quoted furnishing basis for affirmative action by American group has been seen by British

Foreign Office but the official approval neither of it nor of the other governments involved is requested inasmuch as it is assumed that they are all in accord with any method the group may devise for more intimate touch and workings. Because however of the source from which this suggestion informally emanated Lamont deemed it best to send the proposal to the American group through the Department rather than direct. Proposal will now also be transmitted to Japanese group representative in London."

WALLACE

893.51/3419

The American Group to the Secretary of State

NEW YORK, *May 18, 1921.*

[Received May 20.]

SIR: We received your letter of May 17th,⁵⁵ enclosing a copy of a telegram from the Embassy at Paris of May 14th,⁵⁶ transmitting a message from Mr. Lamont regarding the proposed formation of a council to consider Consortium matters.

The American Group met today and discussed this proposal, and we transmit for your information copy of a telegram which we are despatching to Mr. Lamont,⁵⁵ indicating the approval of our Group as therein set forth.

Respectfully,

J. P. MORGAN & Co.
For the American Group

893.51/3354 : Telegram

The Secretary of State to the Minister in China (Craw)

WASHINGTON, *May 23, 1921—1 p.m.*

149. Referring to your telegram No. 143, April 5, 2 p.m., and Commercial Attaché's letter to Director of Bureau of Foreign and Domestic Commerce, March 29,⁵⁷ concerning purchases of railway equipment.

Purchasing agencies and national preference in purchasing of materials as provided in contracts for construction of existing railways are of course unaffected by Consortium Agreement, which relates only to future loan business and which therefore affects existing lines only in so far as new financing may afford occasion for Consortium activities. It is feared confusion on this point may have obscured issues involved in the apparent effort of British controlled lines to exclude American equipment. You will therefore be careful

⁵⁵ Not printed.

⁵⁶ *Supra.*

⁵⁷ Latter not printed.

to avoid construing Consortium Agreement as invalidating provisions of contracts which are not within the scope of the Consortium.

You will, however, with the assistance of the Commercial Attaché continue to insist upon the right of American manufacturers to equality of treatment subject only to such legitimate rights of national preference as may have been established by the loan contracts under which the several existing lines were built; and will protest vigorously to the Chinese Government against any interpretation of these agreements which would exclude American manufacturers from competition.

HUGHES

893.51/3419

The Secretary of State to the American Group

WASHINGTON, June 7, 1921.

GENTLEMEN: The Department acknowledges the receipt of your letter of May 18, 1921, with reference to the decision of the American Group approving the proposed formation of a council to consider Consortium matters.

The Department would like to know whether this proposal has met the approval of all of the Groups. It is noted that in the telegram from Mr. Lamont to you of May 14,⁵⁸ transmitted to you by the Department on May 17, 1921,⁵⁹ the matter was to be submitted to the Japanese Group representative in London.

I am [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

893.51/3455

The Secretary of State to the American Group

WASHINGTON, June 21, 1921.

GENTLEMEN: The Department has received your letter of June 15 [16], 1921,⁶⁰ referring to its letter of April 29, 1921, relative to the proposals concerning the Chinese Land Tax contained in the minutes of the inter-group meetings at London, January 30, 1917, and at New York, October 15, 1920, and enclosing a copy of a letter from Sir Charles Addis⁶⁰ to the effect that the Resolutions of January

⁵⁸ See telegram no. 332, May 14, from the Ambassador in France, p. 365.

⁵⁹ Letter of May 17 not printed.

⁶⁰ Not printed.

30, 1917, were approved by the four groups concerned. Sir Charles Addis states that he does not know whether those resolutions were formally approved by the several Governments. In the Department's letter to you of April 29, the suggestion was made, that in view of the intimate relationship existing in China between the administration of the tax on land, and the domestic affairs of the country, it might be wise for the American Group to consider whether it should not take steps to dissociate itself from any proposal to administer that tax.

In your reply of May 5, 1921,^{80a} you stated that you preferred to postpone seeking the views of the American Group on such question until the return of Mr. Lamont from Europe. It is understood that Mr. Lamont has now returned and the Department believes that the letter from Sir Charles Addis offers an opportunity for consideration by the Group of the Department's suggestion which it hereby renews.

I am [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

893.51/3464

The American Group to the Secretary of State

NEW YORK, June 23, 1921.

[Received June 24.]

SIR: Replying to your letter of June 21st, (FE-893.51/3455), we have taken note of the Department's suggestion that in view of the intimate relationship existing in China between the administration of the tax on land, and the domestic affairs of the country, it might be wise for the American Group to consider whether it should not take steps to dissociate itself from any proposal to administer the Chinese Land Tax.

In view of the fact that in accordance with the original suggestion of the Department the Consortium is, so far as possible, to function along the lines of a free and full partnership, thus avoiding dissentient voice, might not the better course be for the American Group to endeavor to persuade the other three Groups to rescind all references to this tax? Perhaps at an early meeting of the Consortium Council, when formed, it might be possible to record by definite resolution that the Consortium neither seeks control over, nor is at all interested in, the Chinese Land Tax, and does not expect to become interested unless China at some future

^{80a} Not printed.

date finds it necessary to submit that tax as possible security for a loan.

Respectfully,

J. P. MORGAN AND CO.
For the American Group

893.51/3464

The Secretary of State to the American Group

WASHINGTON, *June 29, 1921.*

GENTLEMEN: The Department acknowledges the receipt of your letter of June 23, 1921, in which you suggest that at an early meeting of the Consortium Council, following its formation, a resolution may be proposed to the effect that the Consortium neither seeks control over, nor is interested in, the Chinese Land Tax as security for a loan.

The Department perceives no objection to the adoption of a resolution such as is described in the letter under acknowledgment, especially in view of the misapprehension in certain quarters in Peking regarding the attitude of the Consortium towards the Land Tax.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE
Second Assistant Secretary

893.51/3485

The American Group to the Secretary of State

NEW YORK, *July 27, 1921.*

[Received July 30.]

SIR: Referring to our letter of June 8th,⁶¹ we are informed that the Japanese Group have expressed their agreement with the proposal to form a Consortium Council, and it is contemplated that the first meeting may be held some time during the Autumn. The delegates who have been named as comprising the Council are as follows:

Mr. T. W. Lamont, for the American Group,
Sir Charles S. Addis, for the British Group,
Mr. René T. de la Chaume, for the French Group, and
Mr. T. Okubo, for the Japanese Group.

Respectfully,

J. P. MORGAN & CO.
For the American Group

⁶¹ Not printed.

893.51/3550

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

No. 560

LONDON, *October 19, 1921.*

[Received November 4.]

SIR: I have the honor to transmit herewith, for the information of the Department and such action as may be deemed proper, copies of a document received from the Foreign Office, under date of October 18, 1921, entitled "Project for an Extra-Consortium Loan to the Chinese Government".

I have [etc.]

(For the Ambassador:)

POST WHEELER

Counselor of Embassy

[Enclosure]

The British Foreign Office to the American Embassy

PROJECT FOR AN EXTRA-CONSORTIUM LOAN TO THE CHINESE
GOVERNMENT

Information reached the Foreign Office recently to the effect that the Royal Financial Corporation of Vancouver, British Columbia, Canada, alleged to be representing the Union Bank of Canada and other financial houses, concluded an Agreement on August 16th with the Chinese Government for a loan of 3 million gold dollars for one year with interest at eight per cent at the price of 89, the loan to be repayable from the surplus salt revenue in monthly instalments of half a million gold dollars, beginning March 1922. Such a loan would be entirely contrary to the principles of the Consortium and energetic action to prevent its negotiation was immediately taken officially by His Majesty's Government through the regular channels and also by Sir Charles Addis, who was in Canada at the time.

Although not a party to the Consortium Agreement, the Canadian Government fully recognized the importance of supporting the policy of the Consortium and have taken all possible action within their powers to prevent any Canadian Bank from helping to finance the transaction.

According to reliable information from a confidential source, the Royal Financial Corporation proposed to float two million dollars' worth of the loan in New York and not more than 1 million dollars in British Columbia. It is understood that it was not proposed that any public issue would be made in Vancouver, and that it has probably been intended to place the Canadian part of the loan in Vancouver amongst Chinese residents there. It was expected that

the Banks concerned would be the Union Bank of Canada and the Park Union Foreign Bank Corporation, an American Corporation, the capital of which is understood to be controlled by the National Park Bank of New York. The Union Bank of Canada have emphatically repudiated any knowledge of the transaction. The Royal Financial Corporation are reported to be of secondary standing, and the Canadian Government are not able to exert any direct pressure on them beyond tendering advice, but in view of the extent to which American interests are reported to be concerned, the Canadian Minister of Finance has suggested that while he is ready to cooperate to the extent of his powers, pressure could be exerted most effectively and directly by the United States Government.

It will be suggested to the British Group that they should communicate with the American Group on the subject, and it is confidently hoped that the United States Government will be prepared to take effective action, so far as they are concerned, to prevent the issue of the proposed loan.

OCTOBER 18, 1921.

893.51/3595

The Italian Embassy to the Department of State

A group composed of the most important Italian Banks has been already formed in order to take part in the Financial Consortium for China. The formal request for the admission has been already presented in London. Such request is determined, first of all, by the fact that we recognise the necessity of coordinating the Italian financial activity in China to that of the other Powers who are already members of the Consortium. Any independent action from the Italian side would represent a disturbing factor both in China and in the financial markets. We consider that the fundamental purpose for which the Consortium has been constituted is just the necessity of common action.

Moreover it appears to us that the admission of the Italian group of Banks would help in further strengthening the financial and non-political character of the Consortium, and would render its activity more independent and more useful.

It is finally quite obvious that for natural reasons the Italian action in the Consortium would not contrast in any way with the American interest and point of view.

We should like to know whether the American Government is prepared, for their part, to support the admission of the Italian Banking Group.

WASHINGTON, 22 November, 1921.

893.51/3595

The Department of State to the Italian Embassy

MEMORANDUM

The Department of State has given careful consideration to the memorandum of the Italian Embassy of November 22nd, 1921, with reference to the organization of a group of the most important Italian banks for the purpose of entering the Chinese Consortium. With reference to the question contained therein, as to whether the American Government is prepared for its part to support the admission to the Consortium of the Italian Banking Group, the Italian Embassy is referred to previous correspondence concerning this matter and, more particularly, to a conversation between the Third Assistant Secretary of State and the Italian Ambassador on May 11, 1920,⁶² when the latter was informed that the question of Italian participation would have to be considered by the American Group and the other governments. A copy of the Italian Embassy's memorandum is being forwarded to the American Group for its consideration.

WASHINGTON, *November 30, 1921.*

893.51/3550

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

No. 278

WASHINGTON, *December 9, 1921.*

SIR: Receipt is acknowledged of your despatch No. 560 of October 19, 1921, enclosing a copy of a document from the British Foreign Office, dated October 18, 1921, entitled "Project for an Extra-Consortium Loan to the Chinese Government". In this connection it is desired that you inform the Foreign Office, that, while this Government will of course refuse to give its support or encouragement to the flotation in the United States of any Chinese loan which is contrary to the understandings involved in the Consortium agreement, it must be remembered that the Government of the United States is without any legal power to prevent such loan flotations.

I am [etc.]

For the Secretary of State:

F. M. DEARING

⁶² See memorandum, May 11, 1920, of the Third Assistant Secretary, *Foreign Relations, 1920*, vol. I, p. 542.

893.51/3643

*The American Group to the Secretary of State*NEW YORK, *December 13, 1921.*

[Received December 15.]

SIR: We duly received your letter of December 8th,⁶³ (FE-893.51/3550), with reference to the loan arranged with China by the Royal Financial Corporation of Vancouver for \$3,000,000. We first learned of this negotiation in September and at that time made inquiry of the Park Union Bank, which was mentioned as having possible connection with the transaction. Their response to us was that they knew nothing about it and were in no way, directly or indirectly, interested. We enclose for the Department's information an exchange of cables with London bearing upon this subject, also a copy of the prospectus recently issued by the Royal Financial Corporation.⁶³ We have no information as to this loan beyond the records sent you herewith.

Yours very truly,

J. P. MORGAN & Co.
For the American Group

893.51/3614: Telegram

*The Secretary of State to the Minister in China (Schurman)*WASHINGTON, *December 13, 1921—6 p.m.*

322. Following from American Group for information of yourself and Stevens:

"American Group after communication with British, French and Japanese Groups, and with knowledge of Department, issued December 5 a brief memorandum as to the organization and aims of the Chinese Consortium for the purpose of attempting to meet the many inaccurate statements that have of late been made as to the Consortium both in China and other quarters. At the end of this memorandum a summary of Consortium principles is set forth as follows: '1. The Consortium was organized not primarily as an enterprise for profit, but as a measure of cooperation with and support for, the larger policies of benefit for China, as proposed by the various Governments. 2. The Consortium desires no monopoly of enterprise in China and in fact declines to consider any loans except such as the federal or provincial governments may require for constructive purposes. 3. The Consortium seeks no financial control. If it is to offer Chinese securities to investors, it desires only that proper machinery be provided for safeguarding the security and the expenditure of any loan proceeds. 4. The Con-

⁶³ Enclosures not printed.

sortium would welcome such developments in China as would enable that country to secure wholly from domestic bankers and investors the funds that it so sorely requires for the building up of its means of communication, and for the construction of such other public works as will serve to prevent the disastrous floods, droughts and famines with which China has been from time to time afflicted. 5. The members of the Consortium have, as stated, a great faith in the capacity and character of the Chinese people. They have firm belief in the future of that people. Having had brought to their attention by their respective Governments the grave international dangers that might be incurred from a continuance of the old conditions in China, the several national groups have lent themselves to the plans of their respective Governments in the sincere desire to serve the Chinese people and to contribute to more stable economic and financial conditions in the Far East. 6. The national groups composing the Consortium continue to be of the opinion that the interests of the Chinese people can, in existing circumstances, best be served by the cooperative action of such banking groups, representing the investment interests of their respective countries; and the groups are ready to do their utmost to carry out the original idea of such cooperative effort. Nevertheless, having as stated been organized originally at the instance of the several governments, the Consortium would of course, upon notice from such governments that its services were no longer required, be prepared to arrange for immediate dissolution, thus avoiding further outlays and continuing heavy responsibility. [']"

HUGHES

**DEFAULTS BY THE CHINESE GOVERNMENT ON LOANS FROM
AMERICAN BANKING HOUSES⁶⁴**

Continental and Commercial Trust and Savings Bank

893.51/3211

The Vice President of the Continental and Commercial Trust and Savings Bank (Abbott) to the Acting Secretary of State

CHICAGO, *January 19, 1921.*

[Received January 21.]

SIR: Referring to your letter of December 21, 1920,⁶⁵ in regard to the delay of the Chinese Government in making payment of semi-annual interest due November 1, 1920 on the "Republic of China 6% Two-Year Secured Gold Loan Treasury Notes of 1919", and your advice that the Department had received from the American

⁶⁴ For previous correspondence concerning loans, see *Foreign Relations, 1920, vol. I, pp. 605 ff.*

⁶⁵ Not printed.

Legation in Peking a cablegram⁶⁶ stating that "The Chinese Government will effect re-payment from the surplus of salt revenues during the first few days of January."

Inasmuch as nineteen days of this month have elapsed and such remittance of interest has not been received, may we not request that you again call this matter to the attention of the Chinese Government and bring such pressure to bear as will result in the prompt payment of this interest, which under the terms of the loan contract amounts with costs to \$166,031.25.

In your letter to this Bank dated October 21, 1919,⁶⁷ you were good enough to say that it was the policy of the Department "to give all proper diplomatic support and protection to legitimate enterprises abroad of American citizens", and that "the undertakings of (American) Nationals in foreign countries should be encouraged and supported", and that "to the accomplishment of this end this Government is willing to take all proper steps to insure the execution of equitable contracts which are made in good faith".

As we informed you, we advanced the funds on November 1, 1920 necessary to meet the interest referred to and have in every way done everything we could to maintain the credit of China in the investment market of the United States, but as another semi-annual installment of interest will become due May 1, 1921, or three and one-half months hence, it seems to us that the time is at hand when we must rely upon you to exercise such pressure as will result in the Chinese Government fulfilling its obligations.

Yours respectfully,

JOHN JAY ABBOTT

893.51/3211 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, January 27, 1921—5 p.m.

42. Your 442, December 16, 6 p.m.⁶⁸

Interest due November 1 has not been paid notwithstanding assurance of Minister of Finance that payment would be made in first few days of January from salt surplus. Credit of Chinese Government will be seriously impaired if it persists in deferring interest payment on this loan. You will again remind Minister of Finance of the interest due and urge payment without further delay.

COLBY

⁶⁶ See telegram no. 442, Dec. 16, 1920, from the Minister in China, *Foreign Relations*, 1920, vol. I, p. 673.

⁶⁷ *Ibid.*, 1919, vol. I, p. 525.

⁶⁸ *Ibid.*, 1920, vol. I, p. 673.

893.51/3370 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, April 21, 1921—5 p.m.

124. Another semi-annual installment of interest on Continental and Commercial Bank 6 per cent loan of 1919 will be due on May 1 and to protect credit of Chinese Government in this country banks suggest that Chinese Government should make every effort, and if necessary every sacrifice to pay this interest charge on or before May 1. This is most essential in order that the Continental Bank may say to investment houses that the Chinese Government met the May 1 interest charge promptly and without assistance from the Bank. Bank states that if the Chinese Government should default in the payment of this interest as it did on the last interest installment it will further seriously impair that Government's credit in this country. Please inform Chinese Government.

HUGHES

893.51/3438

The Vice President of the Continental and Commercial Trust and Savings Bank (Abbott) to the Secretary of State

CHICAGO, June 3, 1921.

[Received June 7.]

SIR: Referring to conversation held between the Under Secretary of State, Mr. J. V. A. MacMurray,⁶⁹ and the undersigned, in Washington on May 25, 1921.

In 1916 this Bank made a three-year loan of \$5,000,000 to the Republic of China. In 1919 we made a two-year loan to the Republic of China for \$5,500,000 with which to take up the first loan and to absorb the discount on the second loan. Our information is that these loans were the first ones made to China by any Bank in this country and publicly distributed in the American market. In connection with each loan the State Department wrote us a letter setting forth the character of support that the American Government would give,⁷⁰ which letters, with permission, were published in our prospectus and circulars, and as these latter were distributed among a very large number of the Investment Banking Houses and Bond Dealers throughout this country, they are undoubtedly still in their files available for reference and comparison.

⁶⁹ Chief of the Division of Far Eastern Affairs, Department of State.

⁷⁰ *Foreign Relations*, 1916, p. 138; *ibid.*, 1919, vol. I, p. 525.

The second loan referred to matures on November 1, 1921 and the writer is about to leave for China with the purpose of investigating the situation over there and with the disposition to effect a new loan the proceeds of which will take up the forthcoming maturity of China's obligation. Such a new loan seems necessary because of the present financial situation of China which promises to make it impossible for her to meet the maturity without such assistance. Naturally, we do not wish to make such a renewal loan unless it is so well set up and supported as that we can effect a distribution of it in the American investment market. The alternative would be to carry it in our portfolio, which we have no disposition to do. We feel called upon to extend whatever assistance we can to the Chinese Government in this emergency because of the fact, among other things, that the maturing loan was publicly marketed over our name without any associates. It seems to us that if a new public offering were made by us, which did not include a statement of support by our Government, that the investment distributing houses would immediately make inquiry as to why our Government was not giving its support to this loan, where, under the previous Administration support had been accorded to our previous issues of Chinese Notes, and that this absence of support might have a marked tendency to discourage such dealers from venturing to take commitments in the new issue. We therefore hope that the American Government may see it its way clear to accord a generous measure of support.

If we are correctly informed, the American Group in the Consortium has been given to understand that in the event of the Consortium offering a Chinese loan in this market that effective support by our Government would be forthcoming. If absence of Government support should make it impossible for us to market the loan referred to, and the date of maturity should arrive and the loan be not paid, China's credit in the investment market of this country would be hurt so badly as that it might most certainly interfere with the successful functioning of the American Group in the Consortium when the time arrives for that organization to afford financial assistance to China by appealing to the American investing public to buy the securities offered. From this point of view it appeals to us as desirable for this Government and ourselves to work together to the end of maintaining China in good credit standing.

The Pacific Development Corporation made a two-year loan to China of \$5,500,000 which matures on December 1, 1921, one month after the maturity of our loan. The Pacific Development loan is carried by the bankers of this country and has never been the sub-

ject of a public offering. It has seemed to us that if after a very careful examination of the situation in China, bearing always in mind the possibilities of the American market to absorb a given issue of Chinese securities, it might be desirable to make a new loan of sufficient amount to take care of the Pacific Development maturity along with our own. Such an operation would depend upon the ability of the American market to take the new offering; on our ability to obtain from the Chinese Government such security for the loan as would be satisfactory; and, further, to obtain such character of supervision over the revenues of the security as would justify us in believing that the interest on the new loan would be promptly met and that the principal thereof would be amortized on some agreed schedule. The Pacific Development Corporation at present has been given the privilege of nominating an Associate Inspector General of the Wine and Tobacco Administration, but without adequate powers to function. It may appeal to our Government as desirable to preserve this situation and to increase the effectiveness of the co-administrator by the grant of further powers by the Chinese Government, but to realize all of this presupposes our ability to market such a new loan, and our judgment is that effective support by our Government is necessary thereto.

This bank has offered our loan to the American Group in the Consortium and it has been declined, so that we are necessarily thrown upon our own resources to take care of the maturity of the loan which we offered, and trust that our Government will give us full measure of support to accomplish our purpose and preserve the credit of China.

Respectfully,

JOHN JAY ABBOTT

893.51/3447 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, June 11, 1921—noon.

165. Department's 124, April 21, 5 p.m.

Abbott informs Department May interest has been paid. He says that interest due November, 1920, has not yet been paid. See Department's 42, January 27, 5 p.m. You should urge upon the Chinese Government the desirability of clearing up the question of the November interest at an early date.

HUGHES

893.51/3441

The Secretary of State to the Minister in China (Crane)

No. 221

WASHINGTON, June 15, 1921.

SIR: There is enclosed herewith for your information a copy of a letter of June 6, 1921,¹¹ from Mr. John Jay Abbott, Vice-President of the Continental and Commercial Trust and Savings Bank, of Chicago, regarding his proposed trip to China for the purpose of investigating the political and financial situation in that country with a view to the renewal of the loan made by his bank in 1919.

The Department will be glad if you will cooperate with Mr. Abbott and give him all proper assistance in the investigations and negotiations which he expects to undertake in China.

I am [etc.]

For the Secretary of State:

F. M. DEARING

893.51/3507: Telegram

The Chargé in China (Ruddock) to the Secretary of State

[Paraphrase]

PEKING, September 10, 1921—6 p.m.

[Received September 10—1 p.m.]

322. It is quite probable that Abbott will be able to make loan agreement with Government of China effectively providing for placing the administration of the wine and tobacco taxes under the joint supervision of an American. The Chicago Bank can supply you with detailed information. In Abbott's mind there is great doubt as to the ability of the Chinese Government to satisfy him that the cash income from that source is sufficient for the service of the loan proposed. For this reason he may decline further negotiations and is thinking of notifying the Government to that effect before mid-autumn settlement day which comes September 16.

Does the American Government consider it of value or interest to have such control established over a tax which is of potential value? The Chinese Government states that there is no prospect that Abbott's loan will be paid when it falls due, in any eventuality, including the possibility of an inter-financial commission, however remote that may be.

RUDDOCK

¹¹ Not printed.

893.51/3507 : Telegram

The Secretary of State to the Minister in China (Schurman)

[Paraphrase]

WASHINGTON, *September 15, 1921—2 p.m.*

257. Your telegram no. 322, September 10. It would be of advantage to financial interests in the United States, in the opinion of the Department, if such control of the administration of the wine and tobacco taxes as was intended when the Bank made its original contract should be made effective.

Whether or not Abbott should negotiate a new loan is naturally a matter for him to decide.

The assumption of the Department is that in his negotiations Abbott intends for the present to make a new loan only to refund that made by the Chicago Bank which comes due within a few weeks.

HUGHES

893.51/3540 : Telegram

*The Continental and Commercial Trust and Savings Bank to the Secretary of State*CHICAGO, *October 31, 1921.*

[Received 4:17 p.m.]

We desire to acquaint you at the earliest possible moment with the situation pertaining to the loan of \$5,500,000 made to the Republic of China in 1919 and which loan matures to-morrow, Tuesday, November 1st. . . .

With a view to having the Republic of China make appropriate arrangements for the payment of said last loan, Mr. John Jay Abbott, one of the vice presidents of this bank, has been in China for nearly four months. To our great astonishment we are to-day in receipt of cable advice to the effect that the Chinese Minister of Finance resigned last Friday, October 28, and the Republic of China will make default to-morrow in the payment of both principal and interest of the notes then due. The notes of the Republic of China were widely distributed among investors and are now held by many hundreds of financial institutions and citizens of this country. We appeal to you for such immediate action in the premises as you deem proper. If such default occurs, the financial credit of the Republic of China in this country will, we believe, be

greatly impaired if not destroyed, and any effort on the part of the Republic of China to secure further loans in this country will probably fail. This telegram is sent to you after conference with the Managing Committee of the American members of the consortium. The numerous noteholders are urgently pressing us for information as to what steps we are taking to protect their interests. We therefore ask you for a telegraphic acknowledgment of this message to-day.

CONTINENTAL & COMMERCIAL TRUST & SAVINGS BANK
ARTHUR REYNOLDS, *President*

893.51/3540 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, *October 31, 1921—8 p.m.*

291. The Chicago Continental Bank advises the Department that the Chinese Minister of Finance resigned October 28 and that the Chinese Government will default on the maturities of principal and interest due to it tomorrow, November 1, 1921.

This termination of the negotiations comes so late that the Department fears it may be impossible to save the credit of the Chinese Government in this country from impairment or complete destruction. You will, however, consult at once with Abbott and Stevens and at the earliest possible moment take means to give the appropriate Chinese authorities to understand clearly that only by an immediate promise to cure the default as quickly as negotiations can be carried through, will it be possible for the Chinese Government to preserve any degree of credit in the financial markets of this country. By such a promise and by prompt action thereupon it will be possible for China to minimize the discredit of the default which would in that case be partially condoned as merely technical.

If, on the other hand, the Chinese Government makes no effort to remedy the default, the result must inevitably be a practical closure of this money market to Chinese finance for an indefinite period.

You may further urge upon the authorities that the unwillingness of the Chinese Government to avail itself of the opportunity to redeem its maturing financial obligations must also inevitably create a conviction of such a lack of authority and responsibility on the part of the Chinese Government as can not but affect most adversely the position of China at the forthcoming Conference.

HUGHES

893.51/3549 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 4, 1921—midnight.

[Received November 4—9:06 p.m.]

383. Your 291, October 31. Personally handed Chinese text to Premier November 1, following morning to the Minister for Foreign Affairs with whom I had earnest conference. Premier expressed profound regret of Government at default and hoped that assistance of American Government not diminished thereby at Conference. Chinese text also personally handed Minister Finance.

Abbott and Stevens had separate conference with Minister of Finance this afternoon, Peck⁷² present at request of both. It appears that Minister of Finance in order to minimize popular opposition to any wine and tobacco loan would prefer engage in new contract with Chicago Bank loan and therefore would prefer to continue negotiations with Abbott. Loath to negotiate with Stevens as representative of international consortium though willing to accept him as representative of American group. They insist confidentially against any transfer of contract rights to Japanese. Government seems more anxious to negotiate than before default but no result yet achieved.

SCHURMAN

893.51/3551 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 6, 1921—midnight.

[Received November 7—12:48 a.m.]

385. Your 293, November 4, 5 p.m.,⁷³ my 383, November 4, midnight. In an interview November 2 with the Minister for Foreign Affairs he admitted Chinese authorities remiss in delaying settlement but objected to certain features of Stevens' proposal particularly demand for wine and tobacco co-director with powers equal to Inspector General Customs, inclusion of funds for payment interest Hukuang bonds, American audit inland wine and tobacco revenue stations, which it would not be possible to carry out and finally, magnitude potential value of wine and tobacco security Americans wanted to control in comparison with smallness loan which besides would yield no new funds for Government. I said these were mat-

⁷² Willys R. Peck, Chinese Secretary of the American Legation.⁷³ Not printed.

ters for adjustment with Stevens and urged strongly importance of prompt action to cure default and minimize injury to China.

I immediately had a consultation with Abbott and Stevens and reported as above.

Premier and Minister for Foreign Affairs, Minister of Finance and Minister of Communications met at 5 p.m. today to discuss loan for refunding Chicago Bank and Pacific Development Company loans after which confidential representatives of Minister of Finance called and conveyed the following message from him:

“Minister of Finance assures the American Minister that he is doing his utmost to secure the conclusion of a refunding loan in a mutually satisfactory form at the earliest possible moment. He expresses his desire to continue the negotiations with the Chicago Bank along the general lines of the Chicago Bank and Pacific Development Company agreements of 1919⁷⁴ in order to preserve the continuity of the transaction and thus disarm public opposition and avoid international complications.”

I think new Minister of Finance sincerely concerned in regard to refunding American loan. His representatives said this evening that though he had many urgent affairs he regarded this most important.

SCHURMAN

893.51/3574 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 13, 1921—11 a.m.

[Received November 13—7:21 a.m.]

393. Your telegram 291, October 31, 8 p.m. Following translation of the note dated yesterday from the Foreign Office:

“I have the honor to observe with reference to the loan made by Chicago Bank, the Chinese Government because of the fact that this loan has reached its due date without being repaid is greatly perturbed and is also giving great attention to the matter. Already Ministry of Finance has exerted itself to the utmost to devise means to make a new contract with the bank in the hope that an entirely satisfactory settlement may be arrived at. Minister of Finance has already expressed this to Your Excellency as the records show.

I have the honor to request that you take note of this and hope that you will in turn request your Government to urge the bank to show leniency in order to facilitate completion of the negotiations.”

SCHURMAN

⁷⁴ Agreement with the Continental & Commercial Trust & Savings Bank not printed; for *résumé*, see telegram of Oct. 21, 1919, to the Chargé in China, *Foreign Relations*, 1919, vol. I, p. 526. For agreement with the Pacific Development Corp., see *ibid.*, 1920, vol. I, p. 606.

893.51/3574 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, November 17, 1921—5 p.m.

297. Your 393, November 13, 11 a.m.

While the Department is not disposed to insist that the Chinese Government accept terms which are distasteful, it nevertheless desires that the Legation shall lose no opportunity to impress upon the Chinese Government the opportuneness and desirability of concluding with the least possible delay an arrangement whereby that Government's outstanding financial obligations in this country will be fully satisfied. You may remind the Chinese Government that the Pacific Development Corporation loan soon falls due and that if this loan is also defaulted Chinese credit in this country will be impaired beyond any reasonable hope of early recovery. It is becoming increasingly difficult to interest the public in Chinese securities and another default at this crucial period would be disastrous. The Department feels that it cannot over-emphasize this important phase of the matter. The Chinese Government doubtless knows that practically all of the Continental Bank loan notes are held by individuals, many of whom are pressing for payment. Department earnestly hopes that you will be able to report a satisfactory solution within the next few days.

HUGHES

893.51/3598

The Chinese Legation to the Department of State

PARAPHRASE OF TELEGRAM DATED NOVEMBER 21, 1921, FROM MINISTRY OF FOREIGN AFFAIRS AND MINISTRY OF FINANCE AT PEKING

With reference to the loans secured by the wine and tobacco sales taxes the Ministry of Finance has agreed to the terms of the Chicago Bank except the provision relating to the disposition of the Hukuang Bonds. This is a matter that cannot be immediately adjusted. There is no question that the Chinese Government recognized the validity of the Hukuang Bonds. The coupons will be paid as soon as the account against Germany can be settled. If the stipulation relating to the Hukuang Bonds be taken out and made the subject of a separate agreement, the other articles of the agreement may be signed without delay.

WASHINGTON, November 22, 1921.

893.51/3598

The Secretary of State to the American Group

WASHINGTON, November 23, 1921.

GENTLEMEN: Adverting to previous correspondence regarding the negotiations now in progress at Peking concerning the refunding of certain loans to the Chinese Government, I have to state that the Department has been advised that the Ministry of Finance at Peking has agreed to the terms for a renewal of the loan of the Continental and Commercial Trust and Savings Bank with the exception that the Chinese Government is not willing to include provision for the disposition of the Hukuang Bonds. The Chinese Government has taken the position that this is a matter which cannot be immediately adjusted. It is stated, however, that the Chinese Government recognizes the validity of the Hukuang Bonds and that the coupons will be paid as soon as the account against Germany can be settled. It is asserted that if the stipulation relating to the Hukuang Bonds can be omitted from the refunding loan and made the subject of separate understanding, the other articles of the proposed loan agreement may be signed without delay.

From the above information, which comes to the Department from a reliable source, the Department receives the impression that the Chinese Government is prepared to concede the substance of what the Group has desired with respect to the German issue of Hukuang bonds. If that impression is correct, the Department is hopeful that the Group may see its way to make this proposal of the Chinese Government the basis of an arrangement which would enable that Government to cure its recent default with respect to the Chicago Bank loan, and obviate the possibility of a further default with respect to the maturity of the Pacific Development Corporation loan on December 1st next.

I am [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

893.51/3644: Telegram

The Secretary of State to the Minister in China (Scharman)

WASHINGTON, December 22, 1921—6 p.m.

337. Department's October 31, 8 p.m.

You are instructed to again call the attention of the Chinese Government to the continuing default on the Chicago Continental Bank loan and insist that some immediate action be taken to remedy the

present wholly unsatisfactory condition. Please call attention to the fact that since November 1st, the date on which default occurred, China has paid interest on subsequently maturing obligations and that fact has created further misunderstanding on the part of American investors holding China's defaulted notes. You may suggest that if it is impossible for the Chinese Government to pay principal at this time, it would have beneficial effect upon Chinese credit if past due interest were paid pending arrangements to pay principal.

HUGHES

893.51/3664 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 30, 1921—6 p.m.

[Received December 30—1:30 p.m.]

473. Your 337, December 22, 6 p.m. Have made representations oral and written to Minister for Foreign Affairs and oral to Premier. Premier recognizes grave consequences of default and will take up matter with Minister of Finance. Learn from Ministry of Finance Minister intends resume refunding loan negotiations through Hsun Tuen [*Hsu En-yuan?*] when latter recovers from temporary indisposition.

Have especially requested me to telegraph Department soliciting our support for Chinese proposal to increase customs tariff to 7½ percent pending tariff revision and state loan thereupon would be used to care unsecured foreign and domestic loans. I expressed sympathy in principle with China's desire to increase customs tariff.

SCHURMAN

Pacific Development Corporation

893.51/3271

The American Group to the Secretary of State

NEW YORK, February 18, 1921.

[Received February 19.]

SIR: We beg to advise you that at a recent meeting of the American Group Committee it was decided not to take up the option given the Group by the Pacific Development Corporation on its position under its contract with the Chinese Government.

Respectfully

J. P. MORGAN & Co.
For the American Group

893.51/3366

Messrs. Sullivan & Cromwell to the Secretary of State

NEW YORK, April 9, 1921.

[Received April 12.]

DEAR SIR: Referring to the matter of the Loan Contract of the Pacific Development Corporation with the Government of China, dated November 26, 1919, we have to advise you that an additional arrangement has been made with the American Group of the Chinese Consortium, as embodied in a letter of Mr. Bruce, President, to Mr. Thomas W. Lamont, Acting Chairman, a copy of which letter is enclosed herewith.⁷⁶

You will note that the substance of this arrangement is that on April 1, 1921, the Pacific Development Corporation paid to the American Group \$1,000,000., thereby reducing to \$4,000,000. the loan which the American Group had heretofore made to the Pacific Development Corporation on the collateral of the Chinese Government notes and in consideration of the option on its position which the Pacific Development Corporation has been extending in favor of the American Group. In connection with this \$1,000,000. payment on account the American Group is continuing the balance of the loan until December 1, 1921 (the date of maturity of the Chinese Government notes), and in additional consideration for this partial renewal the Pacific Development Corporation is continuing until this same date the option on its position in favor of the American Group and has reduced the price at which the American Group may take over the notes and agreed that the American Group will receive any profit that the Pacific Development Corporation may make through a sale or payment of the notes.

Having concluded this arrangement with the American Group, we now desire to secure the cooperation of the Department of State in securing from the Chinese Government such performance of the Loan Contract of November 26, 1919 as will permit of the payment of the \$5,500,000. of Chinese notes at their maturity date, namely December 1, 1921. The Chinese notes are secured, principal and interest, by a direct charge upon the Wine and Tobacco Revenues of the Republic of China. In order to make this charge effective, the Loan Contract under which the notes are issued,⁷⁷ and a copy of which is on file with the Department of State, provides by Article Tenth as follows:

“ARTICLE TENTH: The Chinese Government hereby declares it to be its earnest desire that the entire Wine and Tobacco Taxes and

⁷⁶ Not printed.

⁷⁷ *Foreign Relations*, 1920, vol. I, p. 606.

Administration throughout the Republic of China shall be reorganized, with the effective assistance of an American, and to that end it agrees that it will appoint, on December 1, 1919, for a period of at least three years, an American to the position of Associate Inspector-General of the Wine and Tobacco Administration, who shall be satisfactory to the Corporation and who shall possess no less degree of authority than that heretofore given by the Chinese Government to the Associate Chief Inspector of the Salt Administration of China."

The Chinese Government has appointed Mr. C. L. L. Williams as Associate Inspector-General of the Wine and Tobacco Administration, but the Chinese Government has heretofore failed to confer upon Mr. Williams "no less degree of authority than that heretofore given by the Chinese Government to the Associate Chief Inspector of the Salt Administration of China". Mr. Williams' position is in fact wholly nominal, and he exercises no control over the actual collection or disbursement of the Revenues of the Wine and Tobacco Administration.

The Revenues of the Wine and Tobacco Administration are ample to maintain unimpaired the credit of China involved in the various securities issued against these Revenues. If the Chinese Government had been performing its contract with us, there would have been collected in the hands of the American Associate Inspector-General funds ample to pay interest upon both the Pacific Development Corporation Loan and the Continental & Commercial Bank Loan and to amortize these loans in considerable part by their maturity, and the balance could readily have been refunded. In view of the lapse of time which has occurred without the Chinese Government conforming to its contract obligation, it now has become more difficult to assure the payment of the \$11,000,000. of obligations secured by these Revenues which mature—one-half on November 1st and one-half on December 1st of this year. However, if Mr. Williams could promptly be installed, so that he would be functioning smoothly by the time of the above maturities, this would doubtless permit of a refunding of the maturing obligations because the refunding obligations would be secured not so much by the direct credit of China but by revenues of a permanent nature, which are being directly collected and applied by an American. This is the situation which the Chinese Government has contracted to create with the Pacific Development Corporation, and we now bespeak the active support of the Department of State in securing compliance with this undertaking.

The Pacific Development Corporation has not felt disposed to press this matter until now, because it has been almost daily expecting that its position would be taken over by the American Group,

which could far more appropriately take the steps necessary to insure proper control of the pledged Revenues. The recent negotiations with the American Group, however, have developed that the American Group, which has already had our position under option for approximately a year, expresses no expectation now of exercising that option. Accordingly it becomes urgent for the Pacific Development Corporation itself to take up this matter actively, as its ability to discharge its note of \$4,000,000. to the Consortium due December 1, 1921 will be largely affected by whether the Chinese Government notes, which mature on that same date, can be paid off by a refunding obligation or otherwise. This in turn, as we have pointed out, depends upon whether the Chinese Government in the interval lives up to the terms of its contract with the Pacific Development Corporation, which contract, it will be recalled, was approved by the Department of State in its undated letter to Mr. Dulles⁷⁸ of July, 1920.⁷⁹

Mr. Dulles will be glad to take up and develop this matter with you at any time.

We are [etc.]

SULLIVAN & CROMWELL

893.51/3400a

The Secretary of State to the Secretary of Commerce (Hoover)

WASHINGTON, April 30, 1921.

MY DEAR MR. SECRETARY: It gave me much pleasure to receive, last Monday, Mr. Herbert White and Mr. Louis Wehle, for whom you had arranged an appointment to discuss with me the affairs of the Pacific Development Corporation. These gentlemen, accompanied by Mr. Foster Dulles, also called on Friday to see me; but as I found myself at the last moment unable to keep the appointment, they saw the Assistant Secretary instead.

Mr. Dearing tells me that Mr. White and Mr. Wehle advised him of their hope that with your assistance an arrangement may be worked out by which the Pacific Development Corporation would be enabled to obtain from the War Finance Corporation funds for the financing of certain of their orders for machinery and other goods to be exported to China, as security for which they would deposit with the War Finance Corporation the Treasury notes of the Chinese Government held by the Pacific Development Corporation as evidence of that Government's indebtedness to the Corpora-

⁷⁸ John Foster Dulles, member of the firm of Sullivan & Cromwell.

⁷⁹ Not printed; see letter to the American group, July 24, 1920, *Foreign Relations*, 1920, vol. I, p. 650.

tion upon a loan of \$5,500,000 advanced under a contract concluded at Peking on November 26, 1919. They further indicated to Mr. Dearing that, as their Corporation had in the past received the support of the Department of State in reference to this contract, and might in future have occasion to seek its intervention with the Chinese Government for the protection of their interests thereunder, they felt that you would desire an intimation that I would have no objection to the working out of such a plan as they had suggested for financial assistance to be given to their Corporation by the War Finance Corporation.

In response to this suggestion I am happy to inform you that I not only perceive no objection, but would, on the contrary, be much gratified if it should through your good offices prove possible for the Pacific Development Corporation to make such financial arrangements as would assist it in maintaining the considerable part which I understand it has taken in the development of American trade with China.

Very sincerely yours,

CHARLES E. HUGHES

893.51/3397: Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, May 3, 1921—5 p.m.

[Received May 4—3:04 a.m.]

173. Department's 128, April 29, noon.⁸⁰ Williams was nominally installed as Associate Inspector General, Wine and Tobacco Administration, by Minister of Finance on September 1st, 1920, with an office in the Ministry of Finance but has never been vested with any authority of any sort. Minister of Finance placed at his disposal such information regarding revenue as is on file in Ministry of Finance but Director General of the Wine and Tobacco Administration has declined to permit him to function in the administration in any way, even for the purpose of securing information. Inspectorate general referred to in Williams' letter of September 6th with my despatch number 223, September 18th,⁸⁰ has never been established nor has administration furnished any information apart from one skeleton statement of revenue collected 1919. See also Legation's despatch 422, November 5th [4th], 1920;⁸⁰ also Legation's 250, September 9, 5 p.m.⁸¹ for stand Minister of Finance.

CRANE

⁸⁰ Not printed.

⁸¹ *Foreign Relations*, 1920, vol. I, p. 659.

893.51/3424

*Messrs. Sullivan & Cromwell to the Secretary of State*NEW YORK, *May 23, 1921.*

[Received May 24.]

SIR: We have the honor to acknowledge your communication of May 9th (FE-893.51/3366) ⁸² with reference to the Loan Contract of the Pacific Development Corporation with the Government of China of November 29 [26], 1919, and enclosing paraphrase[s] of telegrams exchanged between the Department and the American Legation at Peking with reference to the status of Mr. C. L. L. Williams as Associate Inspector-General of the Wine and Tobacco Administration, pursuant to such contract.

We note that the Legation reports that Mr. Williams "has never been vested with authority of any kind", and that the "Inspectorate General has never been established". This information confirms that which we had ourselves received, and seems to us to establish conclusively that the Chinese Government has wholly failed to comply with its obligation expressed in paragraph Tenth of the Loan Contract. In view of this situation, we beg to submit the following:

1. The period of option on future bonds to be secured by the wine and tobacco revenues (Article Eleventh of the Contract) was intended to begin to run only with the appointment of an American to the position of Associate Inspector-General of the Wine and Tobacco Administration with "no less degree of authority than that heretofore given by the Chinese Government to the Associate Chief Inspector of the Salt Administration of China" (Contract, Article Tenth). The relationship between these two articles has heretofore been explained to the Department, and we understand that the Department has heretofore concurred in the view above expressed, and has so notified the Chinese Government. It would accordingly appear that the seven months' option, referred to in Article Eleventh, has not yet begun to run, and that the Government of China is not in a position to offer additional bonds secured by the Wine and Tobacco Administration without first affording the Pacific Development Corporation, or its assigns, an opportunity to exercise its option. This particular point is not, perhaps, of great value to the Pacific Development Corporation itself, as that corporation is not at the moment in a position to consider exercising such an option. We believe, however, that from the general viewpoint of American interests, it is important that the Department maintain this position so that no other foreign groups or interests can acquire a lien on the wine and tobacco revenues without American interests first

⁸² Not printed.

being advised. This feature might be of especial interest to the American Group which, under certain conditions, still has a contingent interest in the Pacific Development Corporation loan contract.

2. We earnestly and especially solicit the vigorous support of the Department of State in securing immediate compliance by the Chinese Government of the terms of Article Tenth of the contract. Such compliance is quite independent of the question of extension or exercise of an option under Article Eleventh. The agreement under Article Tenth is unqualified and absolute, and is to appoint and confer the requisite powers upon such an Associate Inspector-General "for a period of at least three years." In view of the approaching maturity of the bonds issued under the Pacific Development Corporation Loan Contract and of the Chinese bonds brought out by the Continental & Commercial Bank of Chicago, which are likewise secured by the wine and tobacco taxes, it is of the utmost importance that, well in advance of these maturities and at the earliest possible date, an American assume effective control of the pledged revenues, so that real information can be obtained as to the importance of these revenues, and so that these pledged revenues can actually be reduced to possession and applied for the service on the bonds which these revenues are pledged to secure. Only on such terms could a refunding issue be brought out to take care of the approaching maturities of next November and December, aggregating \$11,000,000, and thus avoid very serious loss to American investors, as well as a serious impairment of the credit of China.

The undertaking of the Chinese Government to appoint and confer authority upon an American Associate Inspector-General of the Wine and Tobacco Administration is clear and unambiguous. It is expressed in a contract, which has been approved by the Department of State. In reliance on this undertaking of the Chinese Government, large sums of money have been advanced, and unless the Chinese Government complies with its obligation very heavy loss will result. In view of all of these circumstances, we respectfully urge that the Department of State take up vigorously with the Chinese Government the matter of securing compliance by that Government of its contractual undertaking.

We are [etc.]

SULLIVAN & CROMWELL

893.51/3465a : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, June 18, 1921—2 p.m.

173. Your 173, May 3, 5 p.m. You will again invite the Chinese Government's attention to its default through failure to complete

the terms of the Pacific Development Loan contract of November 26, 1919, more particularly Article 10 thereof by giving the American Associate Inspector-General of the Wine and Tobacco Administration "no less degree of authority than that heretofore given by the Chinese Government to the Associate Chief Inspector of the Salt Administration of China." In this connection see Department's telegram No. 158, June 29, 4 p.m.⁸³ In presenting this matter to the Chinese Government you will remind it of the early maturity of the bonds issued under the Pacific Development Corporation loan which are secured by the taxes in question and the unfortunate effect that any failure on the part of the Chinese Government to fulfill the terms of its contract with the Corporation in question, will have upon Chinese credit in the United States.

HUGHES

893.51/3512 1/2

The American Group to the Secretary of State

NEW YORK, *September 13, 1921.*

[Received September 17.]

SIR: We beg to acknowledge receipt of your letter of the 20th ultimo,⁸⁴ regarding the note received by the American Chargé d'Affaires at Tokyo from the Japanese Minister for Foreign Affairs,⁸⁴ with respect to the Pacific Development Corporation contract, and outlining the answer which the Department proposes to make to the Japanese Government.⁸⁵ Your proposed reply in general covers the situation, but if we may be permitted to say so there are certain inaccuracies which may be cleared up by the following recital of facts:

At the time of discussing the Pacific Development Corporation contract at the Consortium meeting in October 1920, the Consortium did not feel justified in taking over the \$5,500,000. Chinese Government notes purchased by the Pacific Development Corporation, but suggested that the American Group might see fit to do so with the intention of holding any rights acquired thereby for the ultimate benefit of the Consortium. The members of the Consortium, including the American representatives, were of the opinion that the contract did not furnish a workable basis for loans, and that if the contract were to be of value, it should be remodeled along the lines approved by the Consortium, which included the recognition of various fundamental principles to which the Chinese Government

⁸³ *Foreign Relations*, 1920, vol. I, p. 646.

⁸⁴ Not printed.

⁸⁵ For the Department's reply to the Japanese inquiry, see instructions of Dec. 28, to the Ambassador in Japan, p. 397.

has not yet acceded. Incidentally, the terms of the contract between the Pacific Development Corporation and the Chinese Government afford the basis for argument that the contract required the Corporation to purchase \$20,000,000. additional notes in addition to giving them an option thereon; and the American Group was not prepared to accept whatever moral obligation attached to this clause in the contract, in view of the unlikelihood of placing such bonds with the investing public in this country.

We are quite in agreement with your view that the option granted to the Pacific Development Corporation, under the agreement of November 26, 1919, should be considered as still in force, but the Corporation's freedom to enjoy all rights which originally belonged to it under such contract is to some extent modified by its agreement dated April 1, 1921,^{85a} with the American Group, continuing until December 1, 1921 (or earlier payment of its \$4,000,000. of indebtedness to the bankers in the American Group) the option in favor of the American Group upon the Corporation's position, this position containing two factors:

- 1—The option to take \$20,000,000. additional notes from the Chinese Government, which option was not of value; and
- 2—The right to exercise some supervision over the Wine and Tobacco Administration through the appointment of an Associate Inspector whom, so far as we know, has never been permitted to function.

With respect to the notification forwarded to the State Department by the American Group under date of February 18, 1921,⁸⁶ that it had definitely decided not to take up the option offered to it by the Pacific Development Corporation, we beg to advise that such notification was given in accordance with the provisions of the agreement between the Corporation and the Group whereby the Corporation was to repay its loan from the American Group on April 1, 1921, and the Group was either to exercise the option on the Corporation's position, or to notify the Corporation on or before February 15th if it decided not to do so.

Shortly before April 1st, the Pacific Development Corporation notified the American Group, through us, that it was unable to repay the loan, and a request was made that the Group renew the loan to the date of the maturity of the Chinese Government bonds pledged as collateral, viz. December 1, 1921. As particular consideration for such renewal, the price at which the American Group was given

^{85a} See letter of Apr. 9 from Messrs. Sullivan & Cromwell, p. 387.

⁸⁶ *Ante*, p. 386.

the option to purchase the hypothecated Chinese Government notes was changed from 100 and interest to 91 and interest, the latter being the cost thereof to the Pacific Development Corporation. Provision was made in the agreement renewing the loan that the Corporation was to be free to dispose of the notes pledged as collateral, but if it had an opportunity so to do, the American Group was to be given the right to make such purchase for its own account on not less favorable terms. This modification in the option was made in order to secure cooperation of members of the American Group who had already extended the loan once and who had been expecting to have it paid at its maturity on April 1st.

The American Group has never entertained any objection to taking over the option under the contract; in fact, it has had an option on the entire position of the Pacific Development Corporation except during those periods when relinquishment of such option was made in accordance with the terms of the loan agreement and prior to the maturity dates upon which the Group assumed the Corporation would repay its loan. It has not, however, seen its way clear to take over such position, involving, as such taking over would

- (a) the purchase of notes which the American Group did not consider set up along lines permitting their sale, and
- (b) assuming whatever moral obligation existed to purchase \$20,000,000. additional notes of similar character.

As to the position of the loan with respect to its being included within the Consortium activities, we beg to advise that if the contract were remodeled along lines which permit of the public issue of securities to the investing public, such a loan would automatically become a subject for Consortium activities, and such intent is clearly evident from the phraseology of Minute 15 of the Consortium Meeting of October 15, 1920.⁸⁷ Until the loan takes that form, however, it is not a matter of Consortium activity, although the Consortium members, other than the American, were given, but did not accept, an opportunity to join in the Group's loan to the Pacific Development Corporation and to share in whatever benefits might accrue.

If there are further points regarding this contract upon which you would care to have comment, please advise us.

Respectfully,

J. P. MORGAN & Co.
For the American Group

⁸⁷ *Foreign Relations*, 1920, vol. I, p. 586.

893.51/3578 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 17, 1921—11 p.m.

[Received November 17—2:18 p.m.]

406. Legal counsel of Pacific Development Corporation requests me warn Chinese Government of approaching maturity of loan [from] that corporation with the object of obtaining repayment at maturity by China. Please instruct what action I should take.

SCHURMAN

893.51/3578 : Telegram

The Secretary of State to the Minister in China (Schurman)

[Paraphrase]

WASHINGTON, November 18, 1921—12 noon.

299. Your telegram No. 406, November 17. See telegraphic instructions 297, November 17, 5 p.m.⁸⁸ You are confidentially informed that reliable information has reached the Department that the Chinese Government has been advised by its Minister here that the payment of its loans without any more delay is extremely urgent.

HUGHES

893.51/3603 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 30, 1921—8 p.m.

[Received November 30—12:11 p.m.]

426. Pacific Development loan extended three months, interest to date paid today.

SCHURMAN

893.51/3607

The American Group to the Secretary of State

NEW YORK, December 2, 1921.

[Received December 3.]

SIR: Referring to our letter of November 28th⁸⁹ with respect to the proposed extension of the Pacific Development Corporation loan to China, we beg to state that the Chinese Government paid the in-

⁸⁸ *Ante*, p. 384.⁸⁹ Not printed.

terest due the Corporation on December 1st, and the lending banks in the American Group have approved the extension of the Corporation's note held by them for six months on the terms outlined in the two letters of November 25th and November 28th from the Corporation to the Group, copies of which are attached.⁹⁰

Respectfully,

J. P. MORGAN & Co.
For the American Group

893.51/3480

The Secretary of State to the Ambassador in Japan (Warren)

No. 18

WASHINGTON, December 28, 1921.

SIR: Receipt is acknowledged of your despatch No. 872 of June 27, 1921,⁹⁰ in which you state that the Japanese Government has requested certain information regarding the Pacific Development Corporation's option for a loan to China and particularly whether any further understanding with the Chinese Government has been reached regarding the duration of the option under the loan agreement between the Chinese Government and the Corporation.

As the Japanese Government has already been duly informed the Pacific Development Corporation's option under its loan contract with the Chinese Government of November 26, 1919, had been merged into the Consortium, arrangements to that end having been entered into between the American Group and the Pacific Development Corporation. According to the resolutions passed at the meeting of the Groups' representatives at New York in October, 1920, it was resolved that the American Group be requested, if it deemed wise "to take over for its own account for the benefit of the Consortium" the Pacific Development Corporation's loan.⁹¹ On February 18, 1921, the American Group notified the Department that it had definitely decided not to take up the option offered to it by the Pacific Development Corporation.⁹² In view of the above it is the opinion of the Department that the Pacific Development Corporation is now free to enjoy all rights which originally belonged to it under the contract of November 26, 1916 [1919], subject only to the terms of a loan advanced by the American Group to the Corporation upon the security of the Chinese notes already issued. In view of the fact that the Chinese Government is still in default as regards the per-

⁹⁰ Not printed.

⁹¹ See minute xv, *Foreign Relations*, 1920, vol. I, p. 586.

⁹² *Ante*, p. 386.

formance of its part of the said contract, considering that it has never permitted the functioning of the Associate Inspector General of the Wine and Tobacco Administration as provided by Article 10 of the Loan Agreement of November 26, 1919, the Department regards the option granted to the Pacific Development Corporation in Article II [11] as still in force in view of the default of the Chinese Government hereinbefore mentioned.

I am [etc.]

For the Secretary of State:

F. M. DEARING

PROPOSAL TO REMIT FURTHER PAYMENTS ON THE BOXER INDEMNITY

493.11/756

Senator Henry Cabot Lodge to the Secretary of State

WASHINGTON, *May 25, 1921.*

MY DEAR MR. SECRETARY: There is a matter which I have been meaning to speak to you about and in which I think you will feel the same interest that I do. You will recall, of course, the Boxer Rebellion in China and the final settlement, which was by protocol, under which we received in common with the other powers a payment of money as indemnity for injuries to our people by the Boxer uprising. Mr. Hay,⁹⁶ with whom I had many talks in regard to it, was very much averse to taking any indemnity at all and felt very strongly that at the outside we ought not to have more than two hundred million taels, but under the settlement we received, as I recall, four hundred and fifty million taels (I think it is millions—it may be thousands—but the tael is of comparatively small value). In any event we received quite a large sum as indemnity, I think a total of over twenty million dollars. This indemnity was to be paid in annual instalments. We settled such claims as there were and retained a considerable sum for the payment of other claims, in regard to the validity of which the Department, which had charge of the matter, did not feel satisfied. However, everything has been, I think, long since settled. After we had received the larger portion of the indemnity I discussed the matter further with Mr. Hay, and with his sympathy and approval I introduced a resolution to return a portion of the indemnity to China. It amounted, I think, altogether, to

⁹⁶ Secretary of State from 1898-1905.

eleven million dollars. This was passed, and the money returned, and I do not think we ever did anything that caused a better feeling toward us in China. It is still remembered. When the war came we arranged for the suspension of further payments from China to us on the indemnity account.⁹⁷ Now what I would suggest is this, if it meets with your approval and that of the Department: to put an end to any further payments from China. We have had the suspension for some years and I think the thing ought to be ended. I do not believe there are any further claims that can possibly have any good ground for payment, and I am certain that the remission of all further debt on that account from China to us would be a very good move politically. It would strengthen still further our hold in China. It would require no appropriation on our part, as I understand, and the return of no money. It would simply remit, as I have said, the remainder of the debt under the indemnity, amounting, I think, to between five and seven millions. If this should meet with your approval and you would have a proper form of resolution drafted I should be very glad to introduce it in the Senate and I think we could probably get it through both Houses. There is a very friendly feeling toward China, I think, in Congress, and has been for some time past, owing largely to our sympathy with China in the Shantung business. It seems to me, if it meets with your approval, to be something well worth doing and doing, if possible, now. I therefore take the liberty of bringing it to your attention.

With kind regards [etc.]

H. C. LODGE

493.11/754

The Assistant Secretary of the Treasury (Gilbert) to the Secretary of State

WASHINGTON, June 1, 1921.

SIR: I have the honor to acknowledge receipt of your letter of the 27th ultimo,⁹⁸ requesting that you be furnished with data supplemental to that set forth in letter of this Department of November 2, 1911, to the Chairman of the Committee on Expenditures in the Department of State, House of Representatives, in connection with the Chinese Indemnity resulting from the so-called Boxer insurrection of 1900.

⁹⁷ See telegram of Sept. 5, 1917, from the Minister in China, *Foreign Relations*, 1917, supp. 2, vol. 1, p. 635.

⁹⁸ Not printed.

In compliance with your request there is submitted the following statement giving the information desired, viz:

1. *Receipts by years covering payments of Chinese Indemnity made to the United States from July 1, 1902, to present date.*

1903	\$962, 902. 34
1904	987, 772. 54
1905	1, 128, 200. 04
1906	1, 493, 278. 74
1907	1, 438, 841. 36
1908	1, 013, 606. 36
1909	892, 974. 91
1910	533, 535. 52
1911	533, 473. 49
1912	105, 081. 41
1913	644, 500. 26
1914	806, 083. 88
1915	535, 260. 60
1916	533, 238. 47
1917	535, 070. 09
1918	269, 679. 76
1919-21

12, 413, 499. 77

2. *Claims allowed and paid from the moneys received by the Treasury to date.*

The Secretary of State by letters of March 15 and 20, 1902, allotted the sum of \$2,000,000 out of the indemnity received from China, to pay the claims of American citizens for losses sustained by them in the Boxer disturbances, this account being set up on the books of the Treasury Department under the appropriation title—

“Chinese Indemnity, Claims of Citizens of the U.S. growing out of the Boxer Uprising in North China in 1900.”

Payments under this fund to March 6, 1907, as shown by statement transmitted with letter of November 2, 1911, referred to above \$1, 994, 553. 65

No further payments since March 6, 1907.

Unexpended balance standing on books of Treasury Department under this fund 5, 446. 35

2, 000, 000. 00

Under the provisions of the Joint Resolution of May 25, 1908 (35 Stat., 577), (in connection with decision of the Comptroller of the Treasury, dated November 26, 1909) a fund not to exceed \$2,000,000 was set aside from the Chinese Indemnity to pay judg-

ments allowed by the Court of Claims, this account being set up on the books of the Treasury Department under the appropriation title—

“Claims upon Chinese Indemnity of 1900, Judgments, Court of Claims.”

Payments under this fund during period December 1, 1909, to December 3, 1912	\$824, 164. 36
No further payments since December 3, 1912.	
Unexpended balance under this fund, returned to China as shown below	1, 175, 835. 64
	<hr/>
	2, 000, 000. 00
	<hr/> <hr/>

All judgments allowed by the Court of Claims having been paid, the balance of the above mentioned fund, \$1,175,835.64, under the provisions of the Joint Resolution of May 25, 1908, (in connection with decision of the Comptroller of the Treasury, dated November 23, 1914), was made available for return to the Government of China, the account covering this balance being set up on the books of the Treasury Department under the appropriation title—

“Balance of Chinese Indemnity 1900 reserved by Joint Resolution of May 25, 1908, returned to Government of China.”

Payments under this fund were made by settlement warrants drawn in favor of a representative of the Chinese Government, as follows:

Fiscal year 1915	\$400, 000. 00	
1916	500, 000. 00	
1917	200, 000. 00	
1918	75, 835. 64	
	<hr/>	\$1, 175, 835. 64

The last payment of \$75,835.64, closing this account, was made to the Chinese Minister, by Diplomatic Settlement Warrant No. 1481, July 28, 1917.

From the above it will be noted that the total payments under claims presented and allowed in connection with the Boxer disturbances have amounted to \$2, 818, 718. 01

Balance returned to China under the \$2,000,000 set aside to pay judgments, Court of Claims

1, 175, 835. 64

3. Balance on the books of the Treasury after payment of all claims.

The only unexpended balance standing on the books of the Treasury Department under the funds established to pay claims arising under the Boxer disturbances is that referred to above under the

appropriation "Chinese Indemnity, Claims of Citizens of the United States growing out of the Boxer Uprising in North China in 1900," amounting to \$5, 446. 35.

By direction of the Secretary:

Respectfully,

S. O. GILBERT, Jr.

Assistant Secretary of the Treasury

493.11/756

The Secretary of State to Senator Henry Cabot Lodge

WASHINGTON, July 19, 1921.

MY DEAR SENATOR LODGE: The delay in making a reply to your letter of May 25th, with reference to the indemnity paid to the United States by China in consequence of the so-called Boxer Rebellion is due to the fact that it has been necessary to make a somewhat searching examination of the records not only of the Department of State but of the Treasury Department as well.

In the negotiations which took place at Peking in connection with the resumption of normal relations with China after the Boxer outbreak, there was much disagreement among the Powers as to the amount of indemnity to be levied upon the Chinese Government. This difficulty was finally overcome through the acceptance of a suggestion, offered by this Government, that a lump sum should be assessed which should later be apportioned among the Powers. The amount thus assessed was fixed by Article 6 of the Final Protocol of September 7, 1901, at Haikwan Taels 450,000,000 (equivalent to \$333,900,000 U.S. currency), payable in annual installments, with interest at 4%, over a period of 40 years. The apportionment of this sum among the various nations is shown in a table which forms enclosure No. 1 of this letter.⁹⁹

The proportion of the principal sum thus fixed as payable to the United States was 7.31979% of the total, i.e., Haikwan Taels 32,939,055, equivalent to Gold dollars 24,440,778.81. Under the joint resolution of May 25, 1908, referred to in your letter, this principal sum was reduced by the remission to China of \$10,785,-286.12, leaving \$13,655,492.69 as the principal due the United States, payable annually, with interest at 4%, over the period ending 1940, made up as follows:

Sum set aside for payment of private claims . . .	\$4, 000, 000. 00
Amount of Government claim for military ex-	
penses	9, 655, 492. 69
	<hr/>
	\$13, 655, 492. 69

⁹⁹ Not printed.

Of this \$13,655,492.69, a further sum of \$1,175,835.64 was returned to China after the remaining outstanding private claims of American citizens had been settled, there remaining a net balance of \$12,479,657.05 due, with interest, under the bond as modified in 1908.

I am enclosing a copy of a letter from the Secretary of the Treasury dated June 1, 1921,^{99a} from which it will appear that to date there have been received from China payments totalling \$12,413,499.77, representing the payments of principal and interest up to October 1, 1917—the date of the beginning of the five-year period of postponement, allowed by the Allied and Associated Powers upon China's entry into the war, as recalled in your letter. Of that sum, \$2,819,030.43 has been actually applied to the settlement of the private claims of American citizens, out of the \$4,000,000 which, as indicated above, was set aside to meet private claims, leaving a balance of \$1,180,969.57 which has been disposed of as follows:

Returned to China under authority of Joint Resolution of May 25, 1908	\$1,175,835.64
Balance on books of Treasury held as a trust fund and not returnable under Resolution of May 25, 1908	5,133.93
	<hr/>
	\$1,180,969.57

There has thus been paid by the Chinese Government, over and above the amount devoted to the complete settlement of all private claims, a sum of \$8,418,633.70 towards the satisfaction of the only other indemnity charge—that is, the claim of the United States Government for the naval and military expenses incurred by it in the Boxer Relief Expedition, represented by a principal sum of \$9,655,492.69. This Government's original claim for military and naval expenses thus amounts to only \$1,236,858.99 more than has actually been received from China on that account; and I believe with you that the remission of further payments upon the principal of such claim, as well as of interest, would be in accordance with the spirit which has traditionally characterized our relations with foreign countries: and I am heartily in sympathy with your proposal that we now put an end to any further payments from China. As stated in your letter, no appropriation would be necessary: a resolution of Congress authorizing the President, within his discretion and in such manner as seems to him wise, to forego further payments as from October 1, 1917, would suffice to accomplish that result. In accordance with your request, I am therefore happy to enclose herewith, for your use in bringing the matter to the attention of Congress, a draft of a resolution ¹ to that end.

^{99a} Printed *supra*.

¹ Not printed.

Permit me, in conclusion, to express my appreciation of your interest in this matter, and to assure you of my readiness to furnish more detailed information, if that would be helpful to you, or otherwise to afford such assistance as may lie within the power of this Department.

I am [etc.]

CHARLES E. HUGHES

THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT

British, Japanese, and Danish Protests to the Chinese Government on the Ground of Prior Contracts—Support Given to the Federal Telegraph Company by the American Government in Defense of American Treaty Rights and of the Principle of the Open Door

893.74/48 : Telegram

The Minister in China (Crane) to the Secretary of State

[Paraphrase]

PEKING, November 29, 1920—4 p.m.

[Received November 29—12:55 p.m.]

414. Mr. Schwerin, president of the Federal Telegraph Company, incorporated in California, is negotiating with the Chinese Government through his representative, Mr. Barnes Moss, for wireless overseas communication from Shanghai, with secondary stations at Canton, Harbin and Peking. The Director of the Chinese Telegraphs has suggested to Mr. Schwerin's representative that he employ a working arrangement under American-Chinese management for a certain number of years. Mr. Moss is confident of success. The British Marconi Company is working to conclude a contract for the erection of 42 wireless stations in China but Moss asserts that the Chinese Government shows no anxiety to conclude the contract in question. The Federal Telegraph Company and the Department of Commerce are in communication. The Legation requests to be instructed whether it is authorized to assist Mr. Moss.

CRANE

893.74/48 : Telegram

The Acting Secretary of State to the Minister in China (Crane)

[Paraphrase]

WASHINGTON, December 3, 1920—7 p.m.

354. With reference to the Legation's telegram no. 414, dated November 29, you are informed that there appears to be no objection to the Legation's rendering assistance to Mr. Moss. However, if

you judge course doubtful in the premises, you should report by telegraph your reasons and take no action until further instructed.

DAVIS

893.74/49 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

[Paraphrase]

PEKING, December 8, 1920—3 p.m.

[Received December 8—10 a.m.]

428. With reference to the Department's telegram no. 354 of December 3, the Legation has to call the Department's attention to the fact that the Federal contract may conflict with Marconi, Mitsui and other monopolistic cable agreements. Possibly therefore, even if the strongest contract is concluded, it may not be effective unless it is supported by the American Government against the British and Japanese. The Legation however will lend its support in an endeavor to secure the signature of this contract unless it is otherwise instructed.

CRANE

893.74/52 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

[Paraphrase]

PEKING, December 16, 1920—7 p.m.

[Received December 17—9:13 a.m.]

443. With reference to the Department's telegram no. 354 of December 3, the general outline of the proposed contract is as follows: Provision is made for one main overseas station and inland station at Shanghai as well as for five secondary stations at Peking, Canton, Hankow, Harbin and Shanghai. Further provision is made for a joint partnership between the Chinese Government and the Federal Telegraph Company, the Chinese Government to issue to the Federal Company approximately \$3,000,000 worth of bonds for the company's share. It is understood that the bankers backing the Federal Telegraph Company are members of the consortium group. There is to be a joint management of the system, with the Federal Telegraph Company to have actual control for ten years, profits to be equally divided. Large royalties are to accrue to the Federal Company during the succeeding decade. The bonds are to be secured by a first charge on the Chinese part of the profits and there will be additional security. An indication of the American Government's approval will be asked of the Legation.

H.B.M. Legation is taking part in regular meetings between British Marconi and representatives of the Chinese Government to close

an agreement for the expansion of existing Marconi wireless system, including also, according to reports, the additional supply of trans-oceanic communication. Should I indicate approval? Please instruct.

CRANE

893.74/52: Telegram

The Acting Secretary of State to the Minister in China (Crane)

[Paraphrase]

WASHINGTON, December 21, 1920—4 p.m.

384. Referring to the Legation's telegram no. 443 of December 16; according to Department's feeling from facts in its possession Federal agreement does not entail bond issue for public subscription other than in the Chinese Republic. If consultation with representative of firm establishes correctness of this assumption, official American assent may be signified to the Government of the Republic. However, the Department is desirous that the Federal Company comprehend that the Department's assent is given upon condition that the prospective agreement entails no infringement of the sphere of the consortium's operations or embraces no rudiment of monopoly or curtailment of equal opportunity. The Department calls your attention to Legation's telegram of September 23, 1918, 9 p.m. and despatches no. 2489 of January 28, 1919, and no. 2918 of July 30, 1919.²

ADEE

² Telegrams and despatches not printed. These documents refer to a contract dated Oct. 20, 1917, between the Chinese Government and the Western Electric Co. and the Nippon Electric Co., in pursuance of which the China Electric Co., incorporated in Delaware, was established for the manufacture of electrical apparatus in China. Art. 11 (a) of the contract provided (file no. 893.72/15):

"When the 'Ministry' requires machinery, apparatus or other materials in connection with the telephone and telegraph systems, the 'Ministry' shall place with the 'China Company' such orders which the 'China Company' is in a position to fill in the time to be agreed upon, provided, however, that the prices shall be reasonable and as favorable as those charged by other similar first-class manufacturers for similar materials of like quality; but this, of course, shall not be in the nature of unfair competition, that is, the prices shall be such as to provide a reasonable margin over the cost of labor, material, and the necessary expenses of doing business. All other orders which the 'China Company' is not in a position to fill at the time, may be placed elsewhere."

On Jan. 28, 1919, the Minister in China wrote to Mr. Clark H. Minor, representative of the China Electric Co., as follows (file no. 893.72/6):

"To confirm recent conversations I desire to state that it will not be possible for the Legation to exercise its good offices in support of any rights in which you may claim to have a preference or priority in connection with furnishing telephone and telegraph materials to the Ministry of Communications."

893.74/53 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

[Paraphrase]

PEKING, December 22, 1920—6 p.m.

[Received December 22—2:54 p.m.]

458. Legation's 428, December 8, 3 p.m. and 443, December 19 [16], 7 p.m. Not having been instructed to the contrary, on December 20, I presented to the Prime Minister a letter from Mr. Moss in which he introduced the Federal Telegraph Company and stated its wish to engage in business with the Government of China. I did not discuss a contract or its terms, limiting myself merely to endorsing the company's standing. To secure the acceptance of a contract it may become necessary to make representations to the Chinese Government. I ask for instructions. I am informed by Moss that the results of my interview are favorable to securing a contract. He also reports that the Compagnie Générale Française, a French corporation, has made an offer to construct a powerful wireless station. The offer was made through the French Legation.

CRANE

893.74/55 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

[Paraphrase]

PEKING, December 28, 1920—4 p.m.

[Received December 29—10:10 a.m.]

467. Reference is made to the Department's telegram no. 384 of December 21, 4 p.m., which was received after the sending of the Legation's telegram no. 458 of December 21 [22], 6 p.m. See the Legation's telegram no. 443 of December 16, 7 p.m. for the terms of the pertinent portions of the prospective Federal Company's contract. There is no mention regarding the bond disposal. Federal Telegraph Company's representative is also ignorant in this respect, but believes that owing to the smallness of amount there will be no public issue. The Legation's representative can find no curtailment of equality of opportunities nor monopolistic features. The Legation feels called upon to leave the question of encroachment on consortium sphere to the judgment of the Department on the evidence of the information provided in the Legation's previous telegrams together with further facts to be procured from the Federal Telegraph

Company, although it assumes that there is no encroachment on consortium. The signature by the company will first be necessary for the contract to go into effect.

CRANE

893.74/56 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 8, 1921—10 p.m.

[Received January 8—3:25 p.m.]

14. Legation's 467, December 28, 4 p.m. Contract³ signed today in the presence of Legation representatives, text by the next pouch. Supplementary letter provides that contract becomes effective upon ratification by the company. As the contract provides for overseas communications, Legation considers it to be removed from the scope of the consortium. Attempting maintain secrecy pending ratification.

CRANE

893.74/59 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 20, 1921—2 p.m.

[Received January 20—5 a.m.]

41. My 16, January 9, 1 p.m.⁴ Outline of Federal contract published in papers. British Legation has entered protest with the Chinese on the ground provisions in Marconi agreement for prior rights of China National Wireless Company for sale wireless materials to Chinese Government.⁵ Proceeding on the assumption that the contract will be approved by the Department and the company, I am furnishing Ministry of Communications with arguments to defend [conclusion of] Federal contract against [British] protest.

CRANE

³ For text of the contract, see *List of Contracts of American Nationals with the Chinese Government*, etc., annex VIII (Government Printing Office, 1925).

⁴ Not printed.

⁵ The pertinent clauses of the agreement between the Chinese Government and Marconi's Wireless Telegraph Co., Ltd., May 24, 1919, read as follows (file no. 693.119/300) :

"1. A joint stock limited liability Company, under the terms and conditions hereinafter contained, is hereby constituted, . . .

"2. (a) The said Company shall be known as 'The Chinese National Wireless Telegraph Company' (hereinafter referred to as 'The Chinese Company').

"6. The Government, recognising that the Chinese Company's success depends upon mutual co-operation, hereby agrees that, if the goods supplied by the Chinese Company are not lower in quality nor higher in price to those offered by other Companies, the Government will purchase exclusively from the Chinese Company all its present and future requirements in wireless telegraph and

893.74/60 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 26, 1921—noon.

[Received January 27—2:24 a.m.]

60. My 41, January 20, 2 p.m. Ministry of Communications informs me Japanese Minister has made representations to Foreign Office on the basis Mitsui contract.

CRANE

893.74/59 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, February 2, 1921—5 p.m.

49. Your telegram 41, January 20, 2 p.m. While reserving the question of approval of Federal Wireless contract, the Department desires that you contest Marconi claim to monopoly for supply of wireless materials. You should address a communication to the Chinese Foreign Office, referring to your number 1049 of December 9, 1919,⁶ and state that this Government cannot acquiesce in any attempt to abridge the equal opportunities of its nationals through the establishment of a monopoly of this kind in violation of our Treaty of 1844⁷ and of French Treaties of 1844 and 1858. You will also recall that in the similar case of the Western Electric Company's contract with the Chinese Government for partnership in manufacture of electrical supplies the Legation notified the Chinese Government that it would not support a like monopolistic clause.⁸

COLBY

telephone apparatus, material and supplies, and further if the Government suffers no loss by giving such work to the Chinese Company, the Chinese Company shall be exclusively entrusted with the repair and maintenance of all wireless telegraph and telephone apparatus and equipment in China.

"12. The Marconi Company hereby covenants that during the period when the Chinese Company shall under the terms of Clause 3 above be entitled to the use of the patent rights, designs, drawings and secret processes of the Marconi Company, the Marconi Company will not grant similar rights to any other person for use in China in whole or in part, and during the period of this agreement the Marconi Company and their associated Companies shall not sell wireless telegraph and telephone apparatus material and supplies in China except through the Chinese Company, and the Government, on its part, covenants that it will use all its power during the said period to prevent any other person within China infringing any of these rights causing loss to the Chinese Company, provided that previous application is made by the Chinese Company to the Government asking for the necessary protection."

⁶ Not printed.

⁷ For text of treaty, see Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 4, p. 559.

⁸ See footnote 2, p. 406.

893.74/62 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, February 5, 1921—5 p.m.

[Received February 5—2:45 p.m.]

80. My 64, January 20 [27], 7 p.m.⁹ British Minister has informed me formally of instructions received by him to secure annulment of Federal contract. His protest based on articles 6 and 12 of wireless contract forwarded by Legation's 3118 of December 5th, 1918 [1919].¹⁰

Danish protest now on ground cable contract.¹¹

I fear the present vehement British and Japanese pressure on present weak Cabinet here will be successful although individually all members, especially Minister of Foreign Affairs and Minister of Communications, recognize great desirability of establishing this means of open and cheap communication between the two peoples.

I suggest matter be arranged between the Department and the Governments concerned and I ask for instructions. Moss now in the United States.

CRANE

893.74/63 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, February 6, 1921—11 a.m.

[Received February 6—10:18 a.m.]

81. My 80, February 5, 5 p.m. I am confidentially informed Premier ready to agree to cancellation of Federal contract and has thrown entire responsibility for any other procedure upon Minister of Communications. Premier's position due to the strong pressure of British Government through the Legation here. Foreign Office has asked me to answer British objections directly to British Minister, but I have indicated matter is now under discussion between the two Governments interested.

CRANE

893.74/63 : Telegram

The Secretary of State to the Minister in China (Crane)

[Paraphrase]

WASHINGTON, February 8, 1921—1 p.m.

56. Referring to the Legation's telegrams nos. 80 and 81, of February 5, 5 p.m., and 6, 11 a.m., respectively, the Legation is instructed to inform the Chinese Premier that the cancellation of the Federal

⁹ Not printed.

¹⁰ Despatch not printed; for articles mentioned, see footnote 5, p. 408.

¹¹ See telegram no. 17, Feb. 17, from the Minister in Denmark, p. 414.

Wireless Telegraph contract, on the ground of any claim under prior contracts to a monopoly in the supply of wireless material, or to monopoly of operation, would be regarded by the American Government as an unfriendly act.

The Legation is confidentially informed that Mr. Schwerin and Mr. Moss are in Washington and intend soon to talk over with the American group the possible relationship to the consortium of the Federal Company's contract.

COLBY

893.74/66 : Telegram

*The Secretary of State to the Ambassador in Great Britain (Davis)*¹²

WASHINGTON, February 11, 1921—4 p.m.

85. An American corporation, the Federal Telegraph Company, on January 8th last signed with the Chinese Government a contract for the construction and operation of wireless stations at Shanghai, Peking, Harbin, Canton, for a period of ten years in joint account with the Chinese Government and thereafter for a further ten years on a royalty basis.

This Government has learned with amazement that the British Minister at Peking recently advised the American Legation that under instructions of his Government he had protested to the Chinese Government against this American contract and had insisted upon its cancellation on the ground that it infringes upon the rights claimed to have accrued to the British Marconi Company by virtue of a contract of May 24, 1919, establishing a joint enterprise under the name of the Chinese National Wireless Telegraph Company as a Chinese corporation with certain preferential rights for the supply of wireless equipment to the Chinese Government.¹³

Leaving aside for the present any discussion of the propriety of the British Government asserting diplomatically as against another nationality the claims of a Chinese corporation this Government desires to meet unequivocally and on its merits the claim that any Government can rightfully assert in behalf of the interests of its nationals any such monopoly or preference for the supply of materials or equipment as would debar American citizens from the right to contract freely with the Chinese Government for any category of supplies. The assertion of such an exclusive or preferential right in behalf of British interests frankly raises in the mind of this Government a doubt whether it has correctly understood the attitude of the British Government during the course of recent efforts to cooperate in making real and effective the principle of equality of com-

¹² Substantially the same telegram, Feb. 14, to the Minister in China as no. 65, with instructions to transmit by mail to Tokyo.

¹³ For pertinent clauses of the agreement, see footnote 5, p. 408.

mercial and industrial opportunity in China. This Government must in candor make clear its position that such a claim to monopoly or preference in the supply of equipment to any service of the Chinese Government is in its view fundamentally repugnant to treaty rights and to the principle of the open door; and that it is not prepared to recognize any claim of contractual rights in favor of any party as valid or effective to exclude its nationals from any field of commercial or industrial activity in China.

The British Government may perhaps not be aware that as long ago as 1917 this Government found occasion to apply the same interpretation of the open door principle as against the claims of certain of its own nationals. On October 20th of that year (by a contract closely analogous to the Marconi contract for the Chinese Wireless Company) the Western Electric Company formed with the Chinese Government the China Electric Company which the contract provided should have a preference for the supply of all "machinery, apparatus or other materials in connection with the telephone and telegraph systems" required by the Chinese Ministry of Communications. Upon learning of this provision and after consultation with this Government the American Minister at Peking on January 28, 1919, formally notified the China Electric Company that it would not support or recognize any claims to such preference as was provided in the contract.¹⁴ This position was also explained to the Chinese Government.

This Government cannot doubt that with a knowledge of the attitude thus taken the British Government will not be disposed to insist in favor of its nationals upon an advantage which the American Government had previously rejected as unfair and repugnant to treaty rights and the policy of equality in China when claimed by American interests.

Should this confidence be disappointed, however, and should the British Government continue to assert the preference claimed in the interests of the Marconi Company, this Government would reluctantly be compelled to consider among other things whether the prior rights accruing in favor of the Western Electric Company under the contract of 1917 are not as fully entitled to international recognition and must not therefore be held to constitute such a preference for the supply of telephone and telegraph equipment as would invalidate the Marconi agreements of August 27, 1918, for the sale of wireless telephone equipment,¹⁵ of October 9, 1918, for the establishment of wireless telegraph communications between Kashgar and Sianfu,¹⁵ and of May 24, 1919, for the formation of the Chinese National Wireless Telegraph Company.^{15a}

¹⁴ See footnote 2, p. 406.

¹⁵ Not printed.

^{15a} Pertinent clauses of the agreement of May 24 printed in footnote 5, p. 408.

Such a position would be frankly distasteful to this Government which as above indicated has itself maintained and has assumed a whole-hearted sympathy on the part of the British Government in the attitude of scrupulous avoidance of any claims to special or exclusive privileges in China.

You will incorporate the above in a memorandum to the Foreign Office and take such means as your discretion suggests to impress upon it the feeling of this Government that this matter is one of primary importance to the cooperation between the two countries in the Far East. You may also orally advise the Foreign Office that this Government has notified the Chinese Government of its attitude in this matter.

It is to be expected that as in the case of the contract for airplanes refused recently by the Curtiss Company and subsequently considered for adoption by the Handley-Page Company, but which did not receive support of the British Government, and is now being proffered to American manufacturing interests, Great Britain may change its stand to one of objection on the contention that an arrangement of this nature cannot compatibly be supported by the American Government in view of the consortium agreement. The Embassy should naturally avoid raising this consideration, but if the British Foreign Office takes up this question it may be stated that the American Government has from the beginning made a condition to its approval of the Federal Telegraph Company's contract, that its terms prove to be compatible with this Government's policy in regard to the consortium and that it not entail any monopolistic features. The American group of the consortium and the Department of State are now considering the compatibility of the contract in question with the consortium policy. You are furthermore instructed to make it entirely clear that the American Government considers the question involving the consortium as absolutely separate and distinct from the claim of the British Government to exclude American interests from undertaking wireless enterprises in China on account of the claims by a British company to any priority of rights.¹⁶

COLBY

893.74/66 : Telegram

*The Secretary of State to the Minister in Denmark (Grew)*¹⁷

WASHINGTON, February 15, 1921—7 p.m.

5. An American corporation, the Federal Telegraph Company, on January 8th last signed with the Chinese Government a contract for the construction and operation of wireless stations at Shanghai,

¹⁶ Last paragraph paraphrased.

¹⁷ The same, *mutatis mutandis*, to the Chargé in Japan as no. 31.

Peking, Harbin, Canton, for a period of ten years in joint account with the Chinese Government and thereafter for a further ten years on a royalty basis.

The Legation at Peking now reports that a protest against this contract has been lodged with the Chinese Government by the Danish Legation on the ground that it infringes upon rights claimed by a Danish corporation.

You will inquire of the Foreign Office whether such protest has been made with the approval of the Danish Government and if so what is the precise character of the rights by virtue of which protest is made against this American contract.

COLBY

893.74/72 : Telegram

The Minister in Denmark (Grew) to the Secretary of State

COPENHAGEN, February 17, 1921—9 p.m.

[Received February 18—1:55 a.m.]

17. In accordance with instructions contained in the Department's no. 5, February 15, 7 p.m., I delivered personally to the Minister for Foreign Affairs yesterday a note inquiring whether protest against contract of Federal Telegraph Company had been made with the approval of the Danish Government and if so by virtue of what rights. The following is the pertinent part of the reply which I received today:

"In reply I have the honor to inform you that the Danish Legation at Peking has lodged this protest with the Chinese Government pursuant to instructions from the Danish Government, on the ground that the contract in question is in conflict with the agreement entered upon on the 22nd of December, 1913, between the Chinese Government on the one part and the Great Northern Telegraph Company, Limited, and the Eastern Extension Australasia and China Telegraph Company, Limited, on the other part."

[At my request to be shown the agreement in question the Minister for Foreign Affairs has unofficially given me a copy but has emphasized the fact that it is for my confidential information only and under no circumstances to be given out for publication. I therefore strongly urge the importance of respecting this confidence.¹⁸ It reads as follows:]¹⁹

¹⁸The Secretary of State on Feb. 19 instructed the Minister to this effect: "With a view to avoiding chance of misunderstanding through possible public discussion of the question please point out to Minister for Foreign Affairs that text of agreement quoted in your no. 17 is printed in full in *British and Foreign State Papers*, vol. 107, p. 726." (File no. 893.74/74.)

¹⁹This paragraph, which was omitted in enciphering, is inserted here as communicated to Department in Legation's telegram no. 18, Feb. 18.

[“] Addition to the agreement with the Imperial Chinese Telegraph Administration of July 11th, 1896, dated December 22nd, 1913.

In connection with the agreement entered into on the 11th July, 1896, between the Imperial Chinese Telegraph Administration on the one part, and the Great Northern Telegraph Company, Limited, and the Eastern Extension Australasia and China Telegraph Company, Limited, on the other part, the following additional article has been agreed upon and under date given signed by that [*the*] Chinese Government, represented by Mr. C. C. Lung, the Director General of Telegraph Directorates of Chiao T'ung P'u, and by the companies represented by Captain H. Rothe, Co-General Manager of the Great Northern Telegraph Company, Limited, and Mr. W. Bullard, Manager in China of the Eastern Extension Australasia and China Telegraph Company, Limited, each duly furnished with full and special powers for this purpose, and now witnesseth that in the interest of [both parties] to the agreement, dated July 11th, 1896, and for the same term of years, that is, till the 31st December, 1930, no other party will be allowed without the consent of both the said parties to land telegraph cables on the coast of China and islands belonging thereto, or to work such cables in connection with the Chinese lines, or otherwise to establish telegraph connections which might create competition with or injure the interests of the existing lines belonging to China or to the cable companies. This shall, however, not prevent the Chinese Government from establishing local internal cables where no competition can arise; neither shall it prevent the transmission of terminal Formosa traffic over the Foochow-Formosa cable, now belonging to Japan, whilst other traffic must not be exchanged by this line except with the consent of China and of the cable companies.

The present additional article shall be ratified by the Wai Chiao Pu and by the Ministers at Peking for Denmark and Great Britain.

IN WITNESS WHEREOF the undersigned, duly authorized to this effect, have signed the present additional article.

DONE in Peking in the English language and in the Chinese language. Six documents duly compared and found [to be] in agreement have been signed in each of these languages on the 22nd day of the month of December, 1913, corresponding with the [22nd day of the] 12th moon of the 2d year of the Chinese Republic.

For the Chinese Government,

C. C. Lung (in Chinese characters),

The Director General of Telegraph Directorates

For the Great Northern Telegraph Company, Limited,

H. Rothe, *Co-General Manager*

For the Eastern Extension Australasia and China Telegraph Company, Limited,

W. Bullard, *Manager in China*”

GREW

893.74/73 : Telegram

*The Minister in China (Crane) to the Secretary of State*PEKING, *February 18, 1921—6 p.m.*

[Received February 18—10:35 a.m.]

92. My 80, February 5, 5 p.m. Japanese Minister informs me by note he has demanded cancellation Federal contract on the ground of supplementary letter of March 5th, 1918, of Mitsui contract²⁰ which states:

“During the term of thirty years no other party nor the Chinese Government shall be allowed to erect a similar wireless telegraph station for communicating telegraphically with Europe and America.”

I am confidentially advised by Ministers of Communications and Foreign Affairs Japanese would probably do little more than formally protest except under British instigation. Text of note by pouch.²⁰

CRANE

893.74/72 : Telegram

The Secretary of State to the Minister in Denmark (Grew)

[Paraphrase]

WASHINGTON, *February 21, 1921—7 p.m.*

7. In reference to the Legation's telegram no. 17 of February 17, the Minister is instructed to inform the Danish Minister for Foreign Affairs that the Chinese Government is precluded by its treaty obligations from establishing any monopolies. The Chinese Government explicitly contracts furthermore, in its treaty of 1858 with the United States, that should it ever in any instance

“grant to any nation, or the merchants or citizens of any nation, any right, privilege, or favour connected either with navigation, commerce, political or other intercourse which is not conferred by this treaty, such right, privilege, and favour shall at once freely enure to the benefit of the United States, its public officers, merchants, and citizens.”

The American Government holds, in view of these provisions, that the Chinese Government is not competent to create for the benefit of third parties any rights of such a nature as would deprive American citizens of the right to take part with the Chinese Government in any category of enterprises such as telegraphic communications. Whatever claim to a “natural monopoly” may in the beginning have been

²⁰ Not printed.

put forward on behalf of Danish cable interests, it is evident that any practical basis for such a claim has disappeared on account of the fact that the cable facilities now in existence have become definitely inadequate to the needs of the telegraphic commerce between the United States and China. The American Government can not be convinced, in view of that proved inadequacy, that any such practical necessity exists as to warrant this Government in acquiescing in the extension to wireless communication of the claim to monopoly asserted in the beginning by Danish and certain other cable companies. Although the American Government regrets to find that the interests of Americans are in conflict with those of Danish subjects, it must in frankness make clear its position that such a claim to monopoly as regards any service of the Chinese Government is, in the American Government's opinion, fundamentally in opposition to treaty rights and to the open door principle; and the American Government must also make clear that it is not ready to recognize as valid, or effective to exclude American nationals from any field of industry or commercial activity in China, any claim of contractual rights in favor of any party.

COLBY

893.74/73 : Telegram

The Secretary of State to the Chargé in Japan (Bell) ²¹

WASHINGTON, February 23, 1921—1 p.m.

34. Department's 31, February 15, 7 p.m.²²

Peking telegraphs February 18, 6 p.m.,

“Japanese Minister informs me by note he has demanded cancellation Federal contract on the ground of supplementary letter of March 5th, 1918, of Mitsui contract which states ‘During the term of thirty years no other party nor the Chinese Government shall be allowed to erect a similar wireless telegraph station for communicating telegraphically with Europe and America.’”

Please address to the Foreign Office a note referring to this demand of the Japanese Minister at Peking and continuing to the effect that

“the treaty obligations of the Chinese Government preclude it from creating any monopolies. In its treaty of 1858 with the United States the Chinese Government furthermore specifically agrees that should it at any time ‘grant to any nation, or the merchants or citizens of any nation, any right, privilege, or favour connected either with navigation, commerce, political or other intercourse which is not conferred by this Treaty, such right, privilege, and

²¹ See last paragraph for instructions to repeat to Peking as no. 75.

²² See footnote 17, p. 413.

favour shall at once freely enure to the benefit of the United States, its public officers, merchants and citizens.' In view of these provisions this Government holds that it is not competent to the Chinese Government to create in favor of third parties any such rights as would exclude American citizens from the right to participate with the Chinese Government in any category of enterprise such as telegraphic communications. This Government cannot doubt that the principle upon which this view is based will be respected by the Japanese Government which in the course of various discussions with this Government in regard to the question of equality of commercial and industrial opportunity in China has always concurred in deprecating the effort of any nation to obtain any special rights or privileges in China which would abridge the rights of the subjects or citizens of other friendly states. The Government of the United States is therefore persuaded that the Japanese Government will not be disposed to insist upon the exclusive right now asserted in behalf of the Mitsui Company but will on due consideration acquiesce in the position of this Government namely that such a claim to monopoly with respect to any service of the Chinese Government is fundamentally repugnant to treaty rights and to the principle of the open door; and that the Government of the United States is not prepared to recognize any claim of contractual rights in favor of any party as valid or effective to exclude its nationals from any field of commercial or industrial activity in China."

In addition to the reasons above stated, the American Government feels confident that the Government of Japan, recognizing as it does the grave inadequacy of the existing facilities for cable communication across the Pacific Ocean, will not desire to oppose this project for supplementing those facilities by the development of radiotelegraphy.

Repeat to Peking as Department's 75 adding that Legation should orally advise Japanese Minister of the purport of the communication which you are thus instructed to make to Japanese Foreign Office.

COLBY

893.74/72 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, February 24, 1921—6 p.m.

77. Department's No. 65 February 14, 6 p.m.²³

Danish Government informed this Government that the Danish protest was based on the ground that the contract is in conflict with the Agreement of 1913 between the Chinese Government on the one part and the Great Northern Telegraph Company and the Eastern Extension Australasia and China Telegraph Company on the other

²³ See footnote 12, p. 411.

part,²⁴ copies of which are on file in the Legation but may also be found in *British and Foreign State Papers* Volume 107, page 726. The specific clause on which the protest is based reads as follows: "or otherwise to establish telegraph connections which might create competition with or injure the interests of the existing lines belonging to China or to the cable companies".

On February 21 Copenhagen was instructed to inform the Foreign Office that the Treaty obligations of the Chinese Government preclude it from creating any monopolies. The Chinese treaty of 1858 with the United States was cited and the pertinent clause quoted. The right of the Chinese Government to create in favor of third parties any such rights as would exclude American citizens from participating in any category of enterprises in China such as telegraphic communications was denied.

On the question of "natural monopoly" this Government expressed the opinion that whatever claim of this kind might originally have been urged in favor of the Danish cable interests such claim has lost any practical basis by reason of the fact that existing cable facilities between China and the United States are inadequate. For this reason this Government is not convinced that there exists any such practical necessity as might warrant its acquiescing in the effort to extend to wireless communication the claim to monopoly originally asserted by the Danish and certain other cable companies. This Government holds that such a claim to monopoly is fundamentally repugnant to the treaty rights and to the principle of the open door and it will not recognize any claim of contractual rights in favor of any party as valid or effective to exclude its nationals from any field of commercial or industrial activity in China.

You may read to the Wai Chiao Pu a paraphrase of this telegram and of the Department's No. 65 of February 14, 6 p.m. in connection with the Department's No. 75 February 23, 1 p.m. repeated to you from Tokyo.²⁵

COLBY

893.74/77

The Secretary of State to the President of the Federal Telegraph Company (R. P. Schwerin)

WASHINGTON, February 25, 1921.

SIR: In reference to conversations heretofore had with you and other representatives of the Federal Telegraph Company, the Department of State takes occasion to confirm to you its understanding

²⁴ See telegram no. 17, Feb. 17, from the Minister in Denmark, p. 414.

²⁵ See footnote 21, p. 417.

that you are willing to submit to the American Group of the China Consortium, for such action as that Group may find appropriate under the terms of the Consortium Agreement, the proposal to undertake the financing of the contract between the Federal Telegraph Company and the Chinese Government, dated January 8th, last, for the installation of certain wireless stations.

The Department further takes occasion to advise you that if, after such submission of the proposition to the American Group, that Group does not within a reasonable time accept the same as Consortium business on financial terms which the Department may deem reasonable, the Department will consider itself free to give its full approval and lend all proper diplomatic support to the project covered by the company's contract of January 8, 1921, with the Chinese Government, if otherwise financed upon terms not detrimental to the credit of the Chinese Government.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary

893.74/98 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, *March 2, 1921—6 p.m.*

83. Department's 78, February 25, 7 p.m.²⁷

Inform Chinese Foreign Office that Federal Telegraph Company ratified contract March 1st.

COLBY

893.74/102 : Telegram

Messrs. J. P. Morgan & Company to the Secretary of State

NEW YORK, *March 28, 1921.*

[Received March 28—2:41 p.m.]

Attention of Mr. MacMurray.²⁸ We can now confirm that British, French and Japanese, as well as American, groups of Chinese consortium are not interested in financing Federal Telegraph Company contract.

J. P. MORGAN & COMPANY

²⁷ Not printed.

²⁸ John Van A. MacMurray, Chief, Division of Far Eastern Affairs, Department of State.

893.74/106

*The Federal Telegraph Company to the Secretary of State*WASHINGTON, *March 28, 1921.*

SIR: Referring to your letter of March 18, 1921,²⁹ regarding the protest of the Governments of Great Britain, Denmark and Japan, in which exception is taken to the Federal Telegraph Company's contract of January 8, 1921, to [*with*] the Chinese Government which covered the undertaking of building and operating wireless stations in China, the Federal Telegraph Company now asks that the State Department will signify its approval of the Company's immediately proceeding to carry out the conditions of the above contract.

I am [etc.]

FEDERAL TELEGRAPH COMPANY
By R. P. SCHWERIN, *President*

893.74/105

*The Secretary of State to the President of the Federal Telegraph Company (R. P. Schwerin)*WASHINGTON, *March 29, 1921.*

SIR: I have to acknowledge the receipt of the letter under date of March 28²⁹ in which you advised me that, having submitted to the Consortium for China business through the American Group, in accordance with the Department's letter to you of February 25 last, the financing of your Company's project for the construction of wireless stations in China in pursuance of your contract with the Chinese Government dated January 8 last, you have now been informed by the American Group of the China Consortium that the financing of that project has been declined as Consortium business.

In reply I have to advise you that in view of this fulfillment of the condition stipulated by it, the Department of State hereby gives its full approval and will lend all proper diplomatic support to the project covered by the Federal Telegraph Company's contract of January 8, 1921, with the Chinese Government.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER
Under Secretary

²⁹ Not printed.

893.74/106

The Secretary of State to the President of the Federal Telegraph Company (R. P. Schwerin)

WASHINGTON, *March 29, 1921.*

SIR: Replying to the letter of March 28,³¹ in which you requested an indication of the views of the Department of State with respect to the carrying out of the project for the construction and operation of wireless stations in China in pursuance of your contract of January 8, 1921, with the Chinese Government, in view of the exceptions to that contract taken by the Governments of Great Britain, of Japan, and of Denmark, I have to advise you that the Department perceives no objection to your proceeding to carry out the conditions of the contract above cited, and is prepared to lend all proper diplomatic support thereto.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

893.74/117

The Minister in Denmark (Grew) to the Secretary of State

No. 207

COPENHAGEN, *March 31, 1921.*

[Received April 14.]

SIR: With reference to this Legation's telegram No. 31 of March 30th, 5 [10] p.m.,³² transmitting a slightly abbreviated paraphrase of a note received from the Minister for Foreign Affairs relative to the contract made between the Federal Telegraph Company and the Chinese Government for the construction and operation of wireless stations in China, I have the honor to transmit herewith a copy of the text of the note in question, as well as a copy of my note of February 23rd, to the Minister for Foreign Affairs,³³ to which it refers.

I have [etc.]

J. C. GREW

[Enclosure]

The Danish Minister for Foreign Affairs (Scavenius) to the American Minister (Grew)

COPENHAGEN, *March 29, 1921.*

MONSIEUR LE MINISTRE: In your note of February 23rd no. 71 concerning a protest lodged with the Chinese Government by the Danish Legation at Peking against a contract signed by the said Govern-

³¹ *Ante*, p. 421.

³² Not printed.

³³ Not printed; see telegram no. 7, Feb. 21, to the Minister in Denmark, p. 416.

ment and the American Corporation, The Federal Telegraph Company for the construction and operation of wireless stations in China, you have been good enough, while referring to your earlier note no. 68 of February 16th,³⁴ and under instruction of your Government, to set forth the reasons why the Government of the United States of America consider the said Corporation entitled to enter into such an agreement with the Chinese Government.

The Danish Government are not able to acknowledge that the arguments put forward are well founded, and take the liberty to make the following remarks on the subject.

In the first paragraph of your note you state that the Chinese Government are precluded by treaty obligations from creating any monopoly. The Danish Government are, however, unaware of any treaty-engagement contracted by the Chinese Government which would prevent the said Government from entering into the agreement in question with the Great Northern Telegraph Company Ltd. Moreover there is in this case not a question of a monopoly in the usual sense of the word, but of an agreement of a specific nature. Generally the right to construct and operate wireless stations cannot be claimed by private individuals or companies, but is in several countries, such as for instance in Denmark, reserved for the State. To construct and operate telegraph-connections is an enterprise which under modern conditions form a natural task for the State, just like the mail distribution. For that reason one cannot consider a restriction of the admission for private individuals to carry on such enterprise as expressive of a movement towards monopoly in the usual sense of the word.

The State is justly interested in seeing that not everybody should be able to establish telegraph-connections with foreign countries from its territory. This view seems to gain ground also in the United States of America, at least in respect to the landing of submarine cables and probably also in respect to wireless telegraphy, compare "Hearings before a sub-committee of the committee on interstate commerce United States Senate, 66 Congress, 3rd Session on p. 4301 (a Bill to prevent the unauthorized landing of submarine cables in the United States) Washington 1921."

The Chinese Government instead of laying down the necessary cables etc., themselves have preferred, for practical reasons, to make an agreement on the matter with certain companies, which quite naturally must involve an exclusive privilege for these companies.

This procedure on the part of the Chinese Government can, however, in no way be adduced by other private individuals or companies as the basis for a plea that such activity therefore can be freely exercised by everybody.

³⁴ See telegram from the Minister in Denmark, no. 17, Feb. 17, p. 414.

In your note you furthermore specially refer to the treaty of 1858 between the United States and China, which treaty giving expression to the general most-favoured-nation principle lays down that if the Chinese Government should grant to any nation or to merchants or citizens of any nation any right, privilege, or favour connected either with navigation, commerce, political or other intercourse which is not conferred by this treaty, such right, privilege and favour shall at once freely enure to the benefit of the United States, its public offices, merchants and citizens.

According to the view of the Danish Government a most-favoured-nation clause, however, only concerns the legal position of the citizens in general, while it cannot be put forward to set aside an actual agreement based on civil law between the Government and a private company. This clause might have been adduced by the American Government if the Chinese Government had granted to Danish citizens in general certain rights which do not belong to American citizens. This is however not the case. The actual agreement entered into between the Chinese Government and the Great Northern Telegraph Company Ltd. does not grant to the Danish State or to Danish citizens as such any further rights than such as also belong to other states or their citizens.

From the opposite point of view the Chinese Government would be precluded from making any agreement based upon civil law with the citizens of another country, because the citizens of a most-favoured-nation in this case could request that such an agreement should be set aside, and then demand for themselves to enter as contracting parties upon the same terms.

In your note of February 23rd in fine reference is made to the purely contractual character of the rights of the Great Northern Telegraph Company. It would appear herefrom that the American Government themselves recognize that in the present case there is a question not of a general concession of a constitutional or an international nature but exclusively of contractual rights.

I furthermore beg to observe that it cannot be admitted by the Danish Government that the insufficiency of the telegraphic connection between the United States of America and China can be attributed to the Great Northern Telegraph Company Ltd. or to the rights held by the said company in China, since this connection is owned by the American Company, Commercial Pacific Cable Company, which already has landed one cable in China, and would be free to land another cable there whenever it should so desire. At any rate such considerations of a practical nature cannot in the opinion of the Danish Government be adduced in order to set aside a right expressly agreed upon.

In your note it is furthermore stated that the agreement concluded between the Chinese Government and the Great Northern Telegraph Company Ltd., does not concern wireless telegraphy. This, however, is not consistent with the Danish Government's comprehension of the substance of the agreement. It is expressly stipulated in the additional agreement of December 22nd, 1913, a copy of which I already have had the honour to forward to you,³⁵ not only that till the 31st of December 1930, no other party will be allowed without the consent of both the said parties, to land telegraph-cables on the coast of China and islands belonging thereto, or to work such cables in connection with the Chinese lines, but also that till the date mentioned nobody will be allowed, without the consent of the parties, "otherwise to establish telegraph connections which might create competition with or injure the interests of the existing lines belonging to China or to the cable-companies."

The Chinese Government have moreover at several occasions acknowledged that China is not entitled to grant concessions for wireless connections with other countries to anybody without first having obtained the consent of the companies in question in accordance with the agreements concluded between China and the companies.

In your note it is also said that the existing state of affairs is contrary to the "open-door" principle. In the opinion of the Danish Government this principle however only entails that China cannot close her frontiers to every trading intercourse with other states nor permit one single or some individual states, with exclusion of other states, to trade with her. The open-door principle is one of an international or a political nature and it cannot be adduced as a means to rescind agreements based upon civil law.

Finally it is stated in the last paragraph of your note that contractual rights cannot be a hindrance to the utilization of any field of industrial or commercial activity in China by the citizens of another country. The Danish Government are not aware on what considerations this view is based. They are of opinion that industrial and commercial enterprises cannot obtain any sound development, unless rights already acquired are held in respect. In this connection I take the liberty to refer to the fact that the rights of the Great Northern Telegraph Company Ltd. in China have been generally known, without either the American Government or any other Government having offered any objection to them on the basis of the principles now put forward by the American Government.

Requesting you to be so good as to bring the above considerations to the knowledge of your Government, I avail myself [etc.]

HARALD SCAVENIUS

³⁵ See telegram no. 17, Feb. 17, from the Minister in Denmark, p. 414.

893.74/129

The Minister in China (Crane) to the Secretary of State

No. 996

PEKING, *March 31, 1921.*

[Received May 9.]

SIR: With reference to the Department's telegraphic instruction of February 24, 1921, 6 p.m., No. 77, regarding the protest of the Danish Government against the Federal wireless contract, I have the honor to state that the substance of the Department's instruction was duly read to the Minister for Foreign Affairs.³⁶ In reply he stated that in his answer to the protest of the Danish Minister he had limited himself to the argument that the contract provisions on which the Danish protests were based could not be considered by the Chinese Government to include any method of communication other than cable communication and could not be interpreted as including wireless or any other possible future method of communication. The Minister inquired whether any further information had been received on the subject from the Department, and he was informed that none had been received and it was assumed, therefore, that the matter was closed as far as the Danish Government was concerned. Dr. Yen observed that the Danish Minister had likewise not made any reply to Dr. Yen's note on the subject.

I have [etc.]

(For the Minister)

A. B. RUDDOCK

893.74/115: Telegram

*The Chargé in Japan (Bell) to the Secretary of State*TOKYO, *April 11, 1921—11 a.m.*

[Received April 12—12:48 a.m.]

132. Department's telegram 31, February 15, 7 p.m.,³⁷ presented to Foreign Office February 17th. Department's 34, February 23, 10 [1] p.m.,³⁸ presented February 27th. See also my 50 [86], March 5, 11 a.m.³⁹

I have now received following reply marked "confidential" from Minister for Foreign Affairs dated April 9th:

"I have the honor to inform you that I have given careful study to the contents of the notes dated February 17 and 27, respectively, which you addressed to me under instructions of your Government relative to the contract recently entered into between the Department

³⁶ W. W. Yen.³⁷ See footnote 17, p. 413.³⁸ *Ante*, p. 417.³⁹ Not printed.

of Communications of the Chinese Government and the Federal Telegraph Company, and have also carefully considered the verbal statement you made on the same matter in the course of your conversation with Vice Minister Hanihara on March 4th.

In your note of February 17th you request me to notify you whether the protest lodged with the Chinese Government by the Japanese Minister at Peking against the contract with the Federal Telegraph Company has been made with the approval of the Japanese Government, and if so what the character of the rights is by virtue of which the protest is made. I beg to state in reply that the protest was made with the approval of this Government. As to the character of the rights on which the protest is based, an exposition was given in the note of Minister Obata addressed to the American Minister at Peking under the date of February 16th,⁴⁰ with the contents of which I believe the American Government have been made fully acquainted. I have, however, caused a copy of the note to be enclosed herewith for your information.

The main points of your note of February 27th, and of your verbal statement to Mr. Hanihara on March 4th, are, as I understand, the following:

1. That whereas the demand by the Japanese Minister at Peking for the cancellation of the contract is based on a letter, dated March 5th, 1918,⁴⁰ supplementary to a contract between it and Chinese Government and the Mitsui Company, which contains a declaration that during the term of thirty years the Chinese Government shall not erect nor allow any party other than the Mitsui Company to erect a similar wireless station for communicating telegraphically with Europe and America, the creation of such a monopoly by the Chinese Government is in contravention of the purpose of the American-Chinese treaty of 1858, and the Chinese Government were not therefore competent to create any such exclusive right in favor of the Mitsui Company.

2. That in view of the invariable concurrence of the Japanese Government with the American Government in the course of various discussions in regard to the questions of equality of commercial and industrial opportunity in China in depreciating [*deprecating?*] efforts on the part of a single nation to obtain any special rights or privileges in China which abridge the right of the subjects or citizens of other friendly states the American Government cannot doubt that the principle on which the view they take in the matter under discussion is based will be respected by the Japanese Government.

3. That the American Government feel confident that in the face of the grave inadequacy of the existing facility for cable communications across the Pacific the Japanese Government will not desire to oppose a project for supplementing these facilities by the development of radio telegraphy.

In answer to the above consideration I beg to point out in the first place that in the letter of March 5, 1918, the Chinese Government did not create any exclusive right in favor of the Mitsui Company

⁴⁰ Not printed; see telegram no. 92, Feb. 18, from the Minister in China, p. 416.

to do that which might otherwise have been simultaneously done by an indefinite number of parties acting each on their own account. In the nature of things the wireless installation could not be multiplied as a paying proposition; it is inconceivable that the successful operation of such enterprises can be secured if a variety of competing stations is multiplied by providing one for each "most favored" nation and what has been granted to the Mitsui Company in the letter is in the nature of a security necessary in order to protect the enterprise itself from failure. The case should be distinguished from the establishment of a monopoly over an extensive area in interests such as mining rights which might otherwise be capable of enjoyment by several parties simultaneously. To cite one out of many analogous cases to the present, it is a common practice in connection with a railroad loan to stipulate that no competing line shall be made; a stipulation absolutely necessary if the railroad is to pay its way and the loan to be secure.

Moreover, the construction of the means of communication within the territory of a country is purely a matter of domestic administration and the government of each country ought to be competent to regulate all plans regarding such matters according to their own uncontrolled discretion. That is a principle which as I understand your Government clearly recognize in its treaty of 1868 with China. In this connection the case of the Great Northern Telegraph Company, a Danish corporation, may be mentioned as a precedent. The Chinese Government have granted to this company up till the end of the year 1930 exclusive rights in connection with cable communications, et cetera, and the company has been exercising these rights in Pacific not considering these rights to be of that species which spontaneously inure to every government and its citizens or subjects entitled by treaty to most-favored-nation treatment. The Japanese Government duly recognized the position of the Great Northern Telegraph Company by concluding a special agreement with the company as well as with the Chinese Government when some time ago they laid a cable between Nagasaki and Shanghai. The Japanese Government are not aware that the American Government have made any protest against the position the Great Northern Telegraph Company has been accorded. They understood that this acquiescence on the part of your Government was due to its sharing our views of the character of the rights of the Danish company. It is therefore beyond our comprehension that the Far East government cannot elect to protect only against the Mitsui Company whose position is the same as that of the Great Northern Telegraph Company.⁴²

I venture to believe that from the above the American Government will see that the question of the principle of equal opportunity and the Open Door cannot with pertinence be brought into play in connection with the letter of March 5, 1918, supplementary to the Mitsui [contract?].

As to the question of supplying the grave inadequacy of cable facilities across the Pacific there is no doubt in the view of the Japanese Government that so far as China is concerned the inadequacy of the facilities of communication with abroad will be removed

⁴² This sentence apparently garbled.

should the Mitsui wireless station when completed enter into agreement with the Great Northern Telegraph Company for its use for such communication. If the Chinese Government had been of opinion that the Mitsui station was not quite sufficient to meet China's needs for foreign communication they should, in view of their agreement with the Mitsui Company [have?] first approached the latter for their concurrence before they concluded the contract with the Federal Telegraph Company. The Japanese Government was therefore to learn that the Chinese Government without taking any such previous steps had entered into a provisional agreement with the Federal Telegraph Company for constructing great wireless stations. It was obviously impossible for the Japanese Government from the standpoint of protecting the acquired rights of a Japanese corporation to pass the matter by without protest and they accordingly instructed Minister Obata to convey a warning to the Chinese Government.

In regard to the doubt you expressed to Mr. Hanihara on March 4th as to why the letter of March 5th, 1918, was withheld at the time the Mitsui wireless contract was published in 1919, I beg to state that it was not due to any hesitation on the part of the Japanese Government to publish the letter but that it was because the interests of the parties to a contract like the present do not want the publication of all parts of the documents appertaining thereto.

I beg you, Monsieur le Chargé d'Affaires, etc."

I assume you have received text of Obata's note to Crane of February 16th, see Crane's telegram 92, February 18, 6 p.m.⁴³

Copy to Peking by mail.

BELL

893.74/126

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

No. 4511

LONDON, *April 19, 1921.*

[Received May 2.]

SIR: With reference to my telegram No. 325 of to-day's date,⁴⁴ concerning the contract of the Federal Telegraph Company for the construction of wireless stations in China, to which the Department's telegram No. 85 of February 11 last⁴⁵ referred, I have the honor to transmit herewith copies of the Memorandum of February 15,⁴⁴ based upon the Department's aforementioned telegram, copies of the Foreign Office Note of the 14th instant in reply thereto, the original of which was handed to me yesterday by Lord Curzon in the course of a conversation at the Foreign Office at his request, and copies of my Memorandum⁴⁴ embodying the comments of Lord Curzon during that interview.

⁴³ *Ante*, p. 416.

⁴⁴ Not printed.

⁴⁵ *Ante*, p. 411.

The shortness of time prior to the despatch of to-day's pouch renders it impossible to embody the relevant portion of his remarks in this communication; but, notwithstanding the fact that certain of his observations may be found to have a wider bearing than upon the particular matter which forms the subject of this despatch, it appears desirable to bring the subject to your attention in the form of the memorandum aforesaid.

Mr. Wellesley, Chief of the Far Eastern Division of the Foreign Office, informed the member of the Embassy who delivered to him on February 15 the above mentioned Memorandum, that he had talked the matter over with Sir Godfrey Isaacs⁴⁶ and that it seems that the contract in question was a distinct infringement of the Marconi Company's undertakings with the Chinese Government. During the conversation, the sense of the concluding paragraphs of the Department's telegram No. 85 of February 11 were borne in mind but the only additional observation made by Mr. Wellesley was to the effect that any agreement having priority of time would not, of course, be abrogated by the terms of the Consortium; upon which it was made clear to him that it is the opinion of the Government of the United States that the present question involving the claim of a British company to exclude American interests from carrying on enterprises in China by reason of priority of rights, is one entirely apart from that portion of the matter which concerns the Consortium.

The observations of Lord Curzon regarding the aims and possibilities of the Consortium, and the policy of Great Britain and the United States in the Far East, are sufficiently important as to warrant the Department's perusal thereof in connection with these affiliated matters, and I shall again allude to his comments thereon in subsequent despatches on these subjects.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Chargé (Wright)

[LONDON,] 14 April, 1921.

SIR: On the 15th February Mr. Davis⁴⁷ communicated to this office a memorandum in which he referred to the signature, on the 8th January last, of a contract with the Chinese Government for the construction and opening of wireless stations at Shanghai,

⁴⁶ Managing Director, Marconi's Wireless Telegraph Co., Ltd.

⁴⁷ John W. Davis, then Ambassador to Great Britain.

Peking, Harbin and Canton by the Federal Telegraph Company, an American concern.

2. Mr. Davis expressed the amazement of the United States Government that, under the instructions of His Majesty's Government, His Majesty's Minister at Peking should have protested to the Chinese Government against this contract and should have pressed for its cancellation.

3. Mr. Davis's note reveals the fact that there are several aspects of this matter in regard to which the opinions of the United States Government differ from those of His Majesty's Government. I therefore propose to place before you the following considerations, which I trust will convince the United States Government that the action of His Majesty's Government in protesting against the contract between the Chinese Government and the Federal Telegraph Company of San Francisco is less ill-founded than Mr. Davis's memorandum would seem to infer.

4. As the result of negotiations that had been proceeding for some time, an agreement was signed between the Chinese Government and the Marconi Company on the 24th May, 1919.⁴⁸ Under this agreement a joint-stock limited liability company was constituted in partnership between the Chinese Government and the Marconi Company, entitled the "Chinese National Wireless Telegraph Company." The objects of the company were to be the manufacture of wireless telegraph and telephone apparatus, material and supplies; the sale of such apparatus, material and supplies; and the repair and maintenance of wireless installations then existing or thereafter established in China. For the period of the agreement the Chinese National Wireless Telegraph Company was to have the exclusive use in China of all Marconi patents, rights, designs, drawings and processes, past, present and future, for wireless telegraphy and telephony. The Chinese Government, on their part, recognising that in the case of a public utility such as wireless telegraphy and telephony substantial support is essential to success, agreed that, if the goods supplied by the company were neither lower in quality nor higher in price than those offered by other firms, the Government would during the duration of the contract, a period of twenty years, apply to the company for all its wireless supplies, and would further entrust them with the repair and maintenance of all Chinese Government wireless telegraphs and telephone equipment in China.

5. In view of these explicit obligations on the part of the Chinese Government it is indisputable that the contract signed by the Chinese Government with the Federal Telegraph Company on the

⁴⁸ For pertinent clauses of the agreement, see footnote 5, p. 408.

8th January last (if a contract for the erection of stations on behalf of the Government) constitutes a direct violation of the earlier obligations of the Chinese Government to the Chinese National Wireless Telegraph Company.

6. The United States Government base their present representations upon the assumption that the rights assigned to the Chinese National Wireless Telegraph Company constitutes a monopoly or preference of such a nature as to debar United States citizens from contracting freely with the Chinese Government, and they suggest that the action of His Majesty's Government in holding the Chinese Government to their contractual engagements with the Marconi Company raises a doubt as to the efficacy of recent efforts to affirm effectively the principles of equality of opportunity and of the "open door" in China.

7. Should this be the case, His Majesty's Government would undoubtedly share the concern of the United States Government; they trust, however, that the following observations will serve to dispel any misgivings which the United States Government may entertain in that respect.

8. In the first place, it is only fit that the United States Government should be informed of the motives actuating the formation of the Chinese National Wireless Telegraph Company. That company was formed for the genuine purpose of assisting the Chinese Government in their desire to develop wireless communications in China by the manufacture of the necessary equipment in China by Chinese. Lacking the requisite experience, the Chinese Government turned to the Marconi Company, and formed with them the Chinese National Wireless Telegraph Company which is intended to function only until such time as, with factory duly established and experience gained, the Chinese Government are themselves in a position to buy out the Marconi Company and stand upon their own feet. His Majesty's Government are not aware of any ground upon which the propriety of such an arrangement can be challenged.

9. Mr. Davis declares that no Government can rightfully assert on behalf of its nationals a claim to exercise any such monopoly or preference as would debar United States citizens from the right to contract freely with the Chinese Government for any category of supplies. With due deference, this hardly seems to His Majesty's Government to be an accurate presentation of the issue. Is not the question rather whether there is any reason why the Chinese Government should not, if they so desire, enter into an agreement with a company by which the Government undertake for a period of twenty years to obtain all their requirements in wireless telegraph and telephone apparatus, material and supplies from that particular source,

provided the terms offered are not worse than those obtainable elsewhere? If, as His Majesty's Government contend, there is no such reason, and the Chinese Government, having entered into an agreement of the above nature then proceed to enter into a second agreement which violates the first, is not the Government concerned clearly entitled, and even bound, to intervene with the Chinese Government for the protection of the contractual rights of its nationals?

10. In the present instance, His Majesty's Government, after the most careful scrutiny, can see no legitimate objection to the preferential rights enjoyed by the Chinese National Wireless Telegraph Company under their agreement with the Chinese Government. Any contract for the supply of goods must imply a preference in favour of the contractor, in so far as he has secured the contract over others; should all preference of this nature be debarred, commerce generally would become impossible. Such preferences are indeed the essential concomitants of trade.

11. The question thus narrows itself down to whether in this particular instance the "preference" of which the United States Government complain amounts to a "monopoly", and His Majesty's Government are of opinion that it does not.

12. A monopoly in the ordinary sense may be defined as a right by which one person or body becomes the sole medium through which a particular commodity can be marketed in a given area. This definition is evidently inapplicable in the present case. In the first place, the contract with the Chinese National Wireless Telegraph Company only covers purchases by the Chinese Government, and does not apply to any supplies which may be required by other Governments, institutions or individuals who may operate wireless telegraph in China; and, in the second place, the right which the Chinese National Wireless Telegraph Company enjoy under their agreement of the 24th May, 1919, is explicitly dependent upon their offers being at least as good as those of any competitor. The United States Government will hardly wish to deny that such a provision is wholly inconsistent with the idea of a monopoly, to which the objection is that the monopolist is the only possible seller or purchaser, as the case may be, thus eliminating all possibility of competition.

13. No Government can look to obtain advantageous terms for the supply of goods from contractors for public utilities unless the interests of the contractor are clearly safeguarded. It is not unnatural in such cases to insert a proviso securing to the contractors advantages without which they might not be prepared to sink capital in such undertakings. The grant of preferential rights on such occasions acts at once in the general interest of the public and in that of the contractor, and thus tends to encourage development and progress.

14. It is not inapposite to record here that in connection with the very case which the United States Government cite in support of their arguments—that of the China Electric Company, a Sino-Japanese-American concern—precisely the same point was most carefully studied by His Majesty's Government. After a careful consideration of existing treaty provisions in China, it appeared to His Majesty's Government that the rights of that company did not conflict with the anti-monopolistic clauses of the treaties and could not be objected to on other grounds. Consequently, although His Majesty's Government were at that time unaware that the United States Government had disavowed the preferential rights of the China Electric Company—a point upon which Mr. Davis lays such stress in his memorandum under reply—His Majesty's Government nevertheless refrained purposely from questioning the rights of the China Electric Company either overtly or covertly.

15. In the present case, where the preferential rights of the Chinese National Wireless Telegraph Company appear to be much the same, His Majesty's Government see no reason to depart from the conclusions which they reached after due deliberation with regard to the China Electric Company.

16. Having thus considered the question of principle, allusion must be made to certain further points in Mr. Davis's memorandum. In the first place, the United States Government would appear to intimate that, if His Majesty's Government do not abandon the attitude they have taken up, the United States Government will be obliged to consider the revival of the rights of the China Electric Company under their 1917 agreement, and thus seek to invalidate the three Marconi agreements of the 27th August, 1918, of the 9th October, 1918, and of the 24th May, 1919.

17. The China Electric Company's agreement refers to telegraphy and telephony, and makes no mention of wireless apparatus. Under article 11 (*a*)⁴⁹ of the contract in question the Chinese Government undertake to place with the China Electric Company such orders for machinery, apparatus or other materials in connection with the telephone and telegraph system as the company is in a position to fill in the time to be agreed upon. As, according to the information of His Majesty's Government, neither the China Electric Company nor its Japanese affiliated company, the Nippon Electric Company, makes any pretence of manufacturing wireless apparatus, the application of this clause of the agreement to the supply of wireless apparatus to the Chinese Government can hardly have been contemplated; and this view is strengthened by the fact that the China Electric Com-

⁴⁹ See footnote 2, p. 406.

pany has even negotiated with the Chinese National Wireless Telegraph Company for the purchase of wireless equipment. It would in fact be patent to the world that, if the United States Government were to claim at this date that the China Electric Company's agreement extends to wireless supplies, this claim was being deliberately made for the first time in order to block the rights of the subjects of a friendly Power. His Majesty's Government decline to believe that the United States Government can seriously contemplate such a step.

18. A further point in Mr. Davis's memorandum which seems *prima facie* obscure, but which is doubtless susceptible of simple explanation, is the fact that, though the China Electric Company's agreement was, according to Mr. Davis's statement, signed as long ago as the 20th October, 1917, yet it was not until the 27th January, 1919, that the United States Government formally notified the company and the Chinese Government that they would not recognise or support the preferential rights conferred thereunder. In view of the negotiations then in progress with the Marconi Company, it is unfortunate that the disavowal after the long period of fifteen months, which is now for the first time revealed in Mr. Davis's memorandum of the 15th February, 1921, was not disclosed earlier. Such a disclosure might well have had a bearing upon the negotiations then in progress between the Chinese Government and the Marconi Company.

19. Like the United States Government, His Majesty's Government attach the greatest importance to Anglo-American co-operation in the Far East, where the principles animating British and United States policy are fundamentally the same. It would be a matter of infinite regret were the conflict which has occurred between British and United States wireless interests in China to mar the prospects of such co-operation between the nationals of the two countries. But the United States Government will realise that where legitimate vested British interests are at stake His Majesty's Government would, in existing circumstances, be failing in their duty did they not firmly support these interests when challenged, from however friendly a quarter the challenge may come.

20. There is yet a further aspect of this question to which His Majesty's Government deem it right to invite the attention of the United States Government. Under the agreement of the 12th September, 1911, by which the Poulsen Wireless Corporation acquired their rights in the Poulsen patents from the vendors, Messrs. Pedersen, Poulsen and Blechinberg, they became bound by certain definite obligations. Under clause 10 of that agreement the Poulsen Wireless Corporation agree that "the vendors shall have the exclusive right to make use and sell each and all inventions, improvements and dis-

coveries now belonging to, or that in future shall belong to said corporation, relating to any subject treated of in any of said patents, or relating to any use of which any of said inventions are capable, for and in all countries, outside of United States, Cuba, Porto Rico, the territory of Hawaii, the Philippine Islands and the Midway Islands, and the corporation shall give notice of such inventions, improvements and discoveries to the vendors in the same way as the vendors are obliged to give such notice to the corporation in regard to new inventions, improvements and discoveries made by them in accordance with the stipulations contained in the annexed assignment." Furthermore, that assignment of the same date is specifically subject to the understanding that the Poulsen Wireless Corporation shall not be entitled to the use of the said patents, &c., nor have the right to erect, establish or participate in erecting, establishing or running any stations or to sell any apparatus to be used for wireless telegraphy or telephony in any country or part of the world other than those specified in the agreement. According to my information, the Poulsen Wireless Corporation, subsequently to acquiring the American Poulsen rights, proceeded to form the Federal Telegraph Company for the purpose of exploiting those rights. There can thus be no doubt that the Federal Telegraph Company are equally bound by the obligations imposed upon the Poulsen Wireless Corporation under their agreement and assignment with the vendors. As regards the position of the Marconi Company, the Poulsen Wireless Telegraph Company (Limited), an English company, in which they hold the controlling interest, has acquired the Poulsen rights for all countries other than the United States of America and American territory (which, as above indicated, are in the hands of the Federal Telegraph Company) and certain European countries which remain in the hands of a Danish company. In the event, therefore, of the Federal company having recourse in China to the Poulsen patents, or to any modified or improved form of them, they would apparently be guilty of a breach of agreement, and His Majesty's Government hesitate to believe that in doing so they would have the support of the United States Government.

21. In conclusion, I need hardly remind you that His Majesty's Government will always be ready to consider any proposal that the United States Government may like to make, the object of which is to substitute international co-operation for international competition in China; nor do they in any way wish to limit the field to which the above principles can with advantage be applied.

I have [etc.]

CURZON OF KEDLESTON

893.74/135

The Minister in China (Crane) to the Secretary of State

No. 1071

PEKING, April 25, 1921.

[Received May 28.]

SIR: I have the honor to refer to my despatch of April 13, 1921, No. 1029,⁵⁰ regarding the China Electric Company.

The China Electric Company is owned half by the Chinese Government and half by foreigners. Of the foreign interests, one half is owned by the Western Electric Company and half by the Nippon Electric Company—the Japanese subsidiary of the parent concern, the Western Electric Company. The Nippon Electric Company is owned 70% (approximately) by the Western Electric Company and 30% (approximately) by Japanese interests. The Japanese share in the China Electric Company is thus about 7½%.

In view of this part Japanese interest in the China Electric Company, it has been the practice of the China Electric Company to keep the Japanese Legation informed of current developments in the affairs of the China company and to receive the support of that Legation with the Chinese authorities. This support, it is understood, has been almost indispensable in the past due to the presence of a Japanese subject, R. Nakayama, a telephone engineer, as adviser in the Chinese Ministry of Communications, Department of Telephones.

In accordance, therefore, with the standing practice, Mr. Minor⁵¹ has personally brought the present status of the negotiations to the knowledge of the Japanese Minister and has addressed to him a letter of similar purport to that sent to me under date of April 11, 1921,⁵⁰ a copy of which accompanied my despatch under reference. Mr. Minor informs me that he was well received by the Japanese Minister, but that, as the present negotiations had not before been called to Mr. Obata's attention, no definite statements were made by him. It is known, however, that following this interview Mr. Nakayama was summoned to the Japanese Legation and Mr. Minor's Japanese friends assure him that he may expect favorable consideration and assistance from the Japanese Legation.

I am further informed in strict confidence that it is not known how the prospective sale of wireless telephones to the Chinese Government will be financed, but Mr. Minor presumes it will be with capital secured by the Western Electric Company. If this capital cannot be obtained from America, then efforts may be made

⁵⁰ Not printed.

⁵¹ Clark H. Minor, representative of the China Electric Co., Ltd.

to secure funds from Japan. The existing telephone system of the Ministry is now pledged as security for a Yen 10,000,000 loan, which expires during October, 1921, with Japanese bankers. The prospective sale, if made, will be subject to confirmation of the Western Electric Company, to enable them to get satisfactory assurances that payments can be made, before the China Electric Company will be obligated to undertake the work.

I have [etc.]

CHARLES R. CRANE

893.74/128: Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, May 9, 1921—4 p.m.

[Received May 9—12:49 p.m.]

161. Following from Peking received today: "184, May 6, 7 p.m. Japanese Legation has made public substance of exchange of notes between Japanese and American Governments regarding Federal wireless."

BELL

893.74/137

The Chinese Minister (Sze) to the Secretary of State

WASHINGTON, June 9, 1921.

SIR: I have the honor to inform you that on the 8th of January last an agreement was made between the Ministry of Communications, on behalf of the Chinese Government, and the Federal Telegraph Company, an American corporation, for the erection and operation, as a joint enterprise of the Chinese Government and the American Company, of stations for wireless communication. Against this agreement protests were presented to my Government by certain Governments, claiming that by granting to the American Company the right of participation with the Chinese Government in wireless communications the rights of their nationals secured under prior contracts were violated.

In a recent conversation with you on the subject I understood from you that the American Government could not admit the validity of such claims by reason of their contravening the treaty rights of American citizens in China and the principle of "the Open Door".

My Government is informed that these Governments have explained their views to you, and therefore instructs me to inquire

whether or not it is the intention of the American Government to maintain its position in the matter.

Accept [etc.]

SAO-KE ALFRED SZE

893.74/137

The Secretary of State to the Chinese Minister (Sze)

WASHINGTON, July 1, 1921.

SIR: I have the honor to acknowledge the receipt of your note of June 9th, and in reply assure you that it is not the intention of this Government to withdraw from the position hitherto taken by it in support of the rights accruing to the Federal Telegraph Company under the contract of January 8 last; in its view, the communications which it has received from the other interested Governments, in reply to its inquiries as to the reasons for their protests to the Chinese authorities against this contract, tend only to confirm this Government in its belief that the adverse claims which have been urged as excluding the Federal Telegraph Company from participating with the Chinese Government in establishing wireless communications are founded upon assertions of monopolistic or preferential rights, in the field of Chinese Governmental enterprise, which cannot be reconciled either with the treaty rights of American citizens in China, or with the principle of the open door.

Your reference to the principle of the open door affords me the opportunity to assure you of this Government's continuance in its whole hearted support of that principle, which it has traditionally regarded as fundamental both to the interests of China itself and to the common interests of all powers in China, and indispensable to the free and peaceful development of their commerce on the Pacific Ocean. The Government of the United States has never associated itself with any arrangement which sought to establish any special rights or privileges in China which would abridge the rights of the subjects or citizens of other friendly states: and I am happy to assure you that it is the purpose of this Government neither to participate nor to acquiesce in any arrangement which might purport to establish in favor of foreign interests any superiority of rights with respect to commercial or economic development in designated regions of the territories of China, or which might seek to create any such monopoly or preference as would exclude other nationals from undertaking any legitimate trade or industry or from participating with the Chinese Government in any category of public enterprise.

Accept [etc.]

CHARLES E. HUGHES

893.74/115: Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, July 1, 1921—6 p.m.

102. Your telegram 132, April 11, 11 a.m.

You will address to the Foreign Office a note acknowledging theirs of April 9,⁵² and continuing as follows:

“It is noted that the Japanese Government supports the Mitsui Company in its claim that a letter from the Chinese Ministry of the Navy dated March 5, 1918, subsequent to and separate from the company's wireless telegraph contract of February 21, 1918, and giving evidence of no consideration, was effective to create an obligation upon the Chinese Government not to erect nor permit any party other than the Mitsui Company to erect wireless stations for communication with Europe and America: and it is contended that the monopolistic right thus claimed is justified by reason of the character of wireless installation which ‘could not be multiplied as a paying proposition’. The case is sought to be distinguished from that of a monopoly of mines or railways; but it is obvious that this distinction is one of degree rather than of character, and that there is no more intrinsic reason for assuming that communications may be monopolized for the benefit of a favored concessionaire than that railway or mining enterprise should be similarly exempted from competition. The American Government can not therefore concede that the monopoly thus asserted is reconcilable with the rights assured to its nationals (for instance by its treaty of 1844⁵³) to be free from impediment in their business by monopolies or other restrictions.

It is, moreover, contended that by its treaty of 1868⁵⁴ this Government conceded the right of the Chinese Government to deal at its uncontrolled discretion with such matters as railways and telegraphs. It should be evident, however, that the wording of Article 8 of that treaty not only does not qualify the earlier stipulations against the establishment of monopolies, but is to be construed as assuming that the Chinese Government shall at all times be at liberty to seek impartially such assistance as this Government or others might be desired to furnish, and certainly does not lend itself to the construction that China should enter into such arrangements with private individuals of other nationalities as would preclude it from resorting to the contemplated assistance from the United States. The intent of the Article is manifestly that telegraphic enterprise should be upon the same basis as in fact railway enterprise has been—with regard to which it is not conceived that any of the Treaty Powers would concur in the grant of exclusive rights throughout Chinese territory to any third power.

⁵² See telegram no. 132, Apr. 11, from the Chargé in Japan, p. 426.

⁵³ For text of treaty, see Miller, *Treaties*, vol. 4, p. 559.

⁵⁴ For text of treaty, see Malloy, *Treaties*, vol. 1, p. 234.

In support of the interpretation urged by it the Japanese Government instances the cases of the monopoly of cable communication claimed by the Great Northern Company. In this connection, I have to advise you that my Government has never given its assent to the monopoly claimed by the Danish Company, and is in fact in the present case of the Federal Company denying its validity. The absence of protest on this subject by the American Government was not, therefore, as the Japanese Government has supposed, an indication of its acquiescence, but rather the result of its inability to learn the true status of the case because of the secrecy enveloping the contracts upon which the claim to a monopoly was based.

It is with regret that the American Government has been apprised of the disposition of the Japanese Government to maintain in behalf of its nationals a claim based upon a similarly secret arrangement which was not avowed by the Japanese Government when making public the other relevant documents on April 16, 1919, in pursuance of the declared intention to disclose all such secret arrangements as might exist between its nationals and the Chinese Government, and its disappointment has been the more keen that the Japanese Government should urge, for the purpose of excluding a legitimate American enterprise, a claim based upon a letter whose legal validity is at least questionable, and whose purport is so obviously inconsistent with the assurances conveyed to the Government of the United States by the Ishii Mission with respect to the interpretation to be placed upon the policy of the open door in China as reaffirmed at that time.

My Government is frank to express its belief that the desired cooperation among the powers in China can be effective or helpful, either to the interests of China or to the common interests of the treaty powers, only if it is founded upon a policy of vitalizing and extending the principle of the open door rather than countenancing limitations or restrictions upon its implications.

The Government of the United States has never associated itself with any arrangement which sought to establish any special rights or privileges in China which would abridge the rights of the subjects or citizens of other friendly states; and it is the purpose of the Government neither to participate nor to acquiesce in any arrangement which might purport to establish in favor of foreign interests any superiority of rights with respect to commercial or economic development in designated regions of the territories of China, or which might seek to create any such monopoly or preference as would exclude other nationals from undertaking any legitimate trade or industry or from participating with the Chinese Government in any category of public enterprise."

You will orally indicate that the discussion of this case would now appear to have covered all relevant issues, and that in the view of this Government it seems unnecessary to pursue the question further.

The Department is taking a similar attitude with regard to the British and Danish protests, and in response to an inquiry is address-

ing the Chinese Legation in the sense of the final paragraph of the note quoted above.^{54a}

Advise the Department immediately by telegraph upon the delivery of the note.

Copy to Peking by mail.

HUGHES

893.74/117 : Telegram

The Secretary of State to the Minister in Denmark (Grew)

WASHINGTON, July 1, 1921—6 p.m.

31. Your despatch 207, March 31. Please address the Foreign Office a note acknowledging theirs of March 29⁵⁵ and continuing as follows:

“It would appear that the Danish Government is under some apprehension as to the view of the American Government embodied in the Legation’s note of February 23.⁵⁶ It is not the intention of the American Government to contend that the contractual rights of the Danish company are to be retroactively annulled, or that they are to be held invalid by reason of anterior treaty stipulations save in so far as they are based upon concessions which were actually in excess of the power of the Chinese Government to make. Your note furthermore states that the Danish Government is not aware of the concessions upon which my Government bases its view that the utilization of any field of commercial or industrial activity in China by the citizens of another country can not be hindered by contractual rights. On this point, I would refer you to Article 15 of the American treaty of 1844 by which the Chinese Government undertakes that American citizens in China are not to be impeded in their business by monopolies or other injurious restrictions.

It is the view of my Government that by this and similar provisions of subsequent treaties the Chinese Government has effectively renounced the right to create in favor of itself or of any foreign interests such a position as would exclude American citizens from the possibility of participating in such enterprises. It was therefore not within the competence of the Chinese Government to confer upon Danish interests such a monopoly as is asserted in behalf of the Great Northern Company. Without, therefore, calling into question the validity of the particular positive grants which the Chinese Government may by contract have vested in the Danish company, my Government does insist that no contractual stipulations on the part of the Chinese Government could suffice to divest American citizens for the benefit of that company, of their existing treaty right not to be ‘impeded in their business by monopolies or other injurious restrictions.’

In this view of the matter, it is not felt to be essential that the Chinese Government has hitherto acquiesced in the monopolistic

^{54a} Note of July 1 to the Chinese Minister, p. 439.

⁵⁵ *Ante*, p. 422.

⁵⁶ See telegram no. 7, Feb. 21, to the Minister in Denmark, p. 416.

rights claimed by the company. Nor may this Government be deemed to have acquiesced in this position, in view of the secrecy that has enveloped the contracts upon which the company's claim is based, and that has made it impossible until recently for this Government to ascertain the basis of that claim.

The Government of the United States has never associated itself with any arrangement which sought to establish any special rights or privileges in China which would abridge the rights of the subjects or citizens of other friendly states; and it is the purpose of this Government neither to participate nor to acquiesce in any arrangement which might purport to establish in favor of foreign interests any superiority of rights with respect to commercial or economic development in designated regions of the territories of China, or which might seek to create any such monopoly or preference as would exclude other nationals from undertaking any legitimate trade or industry or from participating with the Chinese Government in any category of public enterprise."

You will orally indicate that the discussion of this case would now appear to have covered all relevant issues, and that in the view of this Government it seems unnecessary to pursue the question further.

The Department is taking a similar attitude with respect to the British and Japanese protests and in response to an inquiry is addressing the Chinese Legation in the sense of the final paragraph of the note quoted above.

Advise the Department immediately by telegraph upon the delivery of the note.

HUGHES

893.74/126 : Telegram

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

WASHINGTON, July 1, 1921—7 p.m.

370. Referring to your despatch 4511, April 19, you will hand to the Ministry of Foreign Affairs a note substantially as follows:

"The Government of the United States has given careful consideration to the note which you addressed to this Embassy under date of April 14 last,⁵⁷ in reference to the protest made by the British Government against the contract concluded January 8th last between the Chinese Government and the Federal Telegraph Company, and I have been instructed to convey to you its appreciation of the assurance which your note contains, that the British Government would undoubtedly share the concern of the United States Government if there were warrant for the assumption that the rights assigned to the Chinese National Wireless Company constitute a monopoly or

⁵⁷ *Ante*, p. 430.

preference of such a nature as to debar American citizens from contracting freely with the Chinese Government.

It is noted, however, that the British Government supports the Marconi Company in its claim that by the contract of May 24, 1919,⁵⁸ constituting a joint enterprise with the Chinese Government under the name of the Chinese National Wireless Company, there was created a valid obligation on the part of that Government to obtain from that company for a period of 20 years all its requirements for wireless purposes, provided the goods offered 'are not lower in quality nor higher in price' than those obtainable elsewhere; and the note contends that there is no reason why the Chinese Government should not create such preferential rights, which it is urged are not only conducive to development and progress, but free from legitimate objection and in particular 'wholly inconsistent with the idea of a monopoly'.

The American Government cannot concede that the arrangement described is unobjectionable from the viewpoint of the provision (in Article 15 of the American Treaty of 1844) by which it is provided that its citizens in China are not to be impeded in their business by monopolies or other injurious restrictions. For despite the repudiation of any monopolistic element, which is made in paragraph 12 of your note, it appears to be the fact that the British Marconi Company itself construes its preferential rights as constituting a monopoly in its favor, and it has in fact contracted with another American firm upon the basis of the possession by its subsidiary, the Chinese National Wireless Company, of such 'a monopoly of radio devices in China', and of 'a monopoly of radio in China' such as would enable the British Company to effect 'exclusive traffic arrangements so far as concerns communications from, to and through the Chinese Republic and from, to and through the territory' in which the American company may operate.

In view of the position thus explicitly and formally taken by the British Marconi Company as to the monopolistic rights which it claims through its Anglo-Chinese subsidiary, the Government of the United States cannot but feel that this claim exemplifies practically the encroachment upon the principle of the open door which must be anticipated to follow from the establishment of such a preferential right as the British Government is in this case disposed to uphold. Such a position seems the inevitable practical result of any effort to qualify the principle of equality of economic and commercial opportunity in China by the establishment of a favored situation for any particular interest.

It was in the apprehension that such a result must follow, that this Government refused its sanction to a similar provision in the Western Electric Company's contract of October 20, 1917, to which reference was made in the Embassy's memorandum of February 15 last.⁵⁹ In this connection it is perhaps appropriate, though not strictly relevant to advert to the intimation contained in paragraph 18 of your note that there is some obscurity due to the fact that the refusal of the American Government to support the preference clause in that Com-

⁵⁸ For pertinent clauses of the agreement, see footnote 5, p. 408.

⁵⁹ See telegram no. 85, Feb. 11, to the Ambassador in Great Britain, p. 411.

pany's contract was not communicated to the company until 15 months later, when the Marconi Company's negotiations were in progress. This suggested obscurity will no doubt be dissipated when you are advised that that clause first came under the particular scrutiny of the American Government when the company sought the support of the Legation at Peking in reference to a dispute with the Chinese Government, which arose in September, 1918, as to the construction to be placed upon the provision in question. At that time the Legation, which was quite unaware that the Marconi Company was seeking a similar preferential clause or was even contemplating such an arrangement as was concluded in the following May, advised the American interests concerned that it could in no case support, without special instructions from the Department of State, a provision which seemed clearly incompatible with the principle of the open door and with the treaty prohibition against monopolies and injurious restrictions; and in a telegram dated September 23rd⁶⁰ it asked the Department's instructions on this question, pointing out that a relaxation of the principle involved would afford a precedent for the establishment of enterprises in China which might for instance claim a priority in the furnishing of all supplies and equipment for the railways in China. It was this tentative ruling of the Legation which was in due course approved, and formally communicated to the company in January, 1919.⁶¹

While dealing with the subject of the Western Electric Company's contract, it is further to be noted that Article 11 (A)⁶¹ referring to 'machinery, apparatus or other materials in connection with the telephone and telegraph systems' of the Ministry of Communications, contains no limitation excluding wireless devices. Your note would infer that such an exclusion is implicit in the fact that, as you are informed, neither the Nippon Electric Company nor the China Electric Company manufactures wireless apparatus. I would remark, however, that the Western Electric Company, the parent organization of both of these companies, occupies a prominent position among the manufacturers of such apparatus. My Government does not therefore feel able to concur in this inference, and cannot accept the implication that its support of the literal wording of the contract could be construed as actuated by any desire to block the rights of British subjects.

In further reference to the particular case at issue, your note in its 20th paragraph raises various questions as to the right of the Federal Telegraph Company to make use of certain patents in China. I must advise you that on these points the American company not only contests the claim of the British Marconi Company to any valid assignment of these patent rights in China, but directly traverses certain of the information which you have received regarding the position of the Federal Company in relation to these patents. In the absence of any indication of bad faith in this matter on the part of the American Company, my Government would certainly not feel justified in prejudging the issues of fact and of law which are involved and which are indeed within the sole competence of the courts to determine.

⁶⁰ Not printed.

⁶¹ See footnote 2, p. 406.

My Government appreciates the assurance you have conveyed to it as to the readiness of the British Government to consider any proposals that it may like to make in the interests of international cooperation in China: but it is frank to express its belief that no such cooperation can be effective or helpful either to the interests of China or to the common interests of the Treaty Powers unless founded upon a policy of vitalizing and extending the principle of the open door rather than countenancing limitations or restrictions upon its implications.

The Government of the United States has never associated itself with any arrangement which sought to establish any special rights or privileges in China which would abridge the rights of the subjects or citizens of other friendly states; and it is the purpose of this Government neither to participate nor to acquiesce in any arrangement which might purport to establish in favor of foreign interests any superiority of rights with respect to commercial or economic development in designated regions of the territories of China, or which might seek to create any such monopoly or preference as would exclude other nationals from undertaking any legitimate trade or industry or from participating with the Chinese Government in any category of public enterprise."

You will further indicate that the discussion of this case would now appear to have covered all relevant issues, and that in the view of this Government it seems unnecessary to pursue the question further.

The Department is taking a similar attitude with regard to the Danish and Japanese protests, and in response to an inquiry is addressing the Chinese Legation in the sense of the final paragraph of the note quoted above.

Please advise the Department immediately by telegraph upon the delivery of the note.

HUGHES

893.74/171 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

[Paraphrase]

PEKING, August 18, 1921—5 p.m.

[Received August 18—2:02 p.m.]

290. Notwithstanding my vigorous representations the Government of China is wilfully putting off its signature to the Federal Telegraph bond issue, possibly because of the Japanese, British, and Danish protests, possibly because of internal political considerations. The result is practically a nullification for the time of the postponement. It has been awaiting action for a month and three weeks. Federal Telegraph engineer at Shanghai will go on with his task there. I would suggest that the Department send forward through this Legation a strong communication to the Chinese Government.

RUDDOCK

893.74/173 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, August 26, 1921—5 p.m.

239. Your 290, August 18, 5 p.m., and 296, August 24, 10 a.m.⁶²

While Department has been unable to make positive representations in the absence of the text of the agreement under negotiation, the Chinese Minister here has been advised in an informal conversation that this Government would feel surprise and keen disappointment if the Chinese Government should place obstacles in the way of the prompt fulfilment by the Federal Telegraph Company of its contract; that this contract has been an important element in establishing and preserving the open door principle in China, and that this Government has relied upon the whole-hearted cooperation of the Chinese Government in making that principle effective. The hope was expressed that the Chinese Government would avoid any action which might compromise it in any way or vitiate a contract entered into in good faith. The Department is at a loss to understand why there should be any delay in reaching an agreement, and unless the Chinese Government advances some sound and convincing reason to the contrary this Government will expect that the Federal Company will be permitted to proceed without unnecessary delay.

You may informally and orally convey the substance of the above to the appropriate Chinese authorities.

HUGHES

893.74/174 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, August 26, 1921—6 p.m.

[Received August 27—4:54 a.m.]

302. My 296, August 24, 10 a.m.⁶² Summoned today by Yen⁶³ who stated British Legation 24th informed him that if American Government insisted on execution Federal contract British Government to its regret must maintain attitude of protest. Yen also said Japanese were likewise sustaining their position and had informed him would claim damages if American contract executed. Yen expressed deep regret and anxiety to see three friendly nations thus in dispute particularly before Washington Conference. Stated that while [there was?] no question of nonexecution of contract by China latter wanted to have these other friendly nations come to agree-

⁶² No. 296 not printed.⁶³ W. W. Yen, Chinese Minister of Foreign Affairs.

ment through compromise and hinted that in meantime execution of contract difficult. Yen asked me so inform Department and inquire how negotiations between the United States and Great Britain stood. It seems clear Chinese Government intimidated by British and Japanese representations.

RUDDOCK

S93.74/174: Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, August 29, 1921—4 p.m.

242. Your 302, August 26, 6 p.m.

You will take early occasion to say to Minister for Foreign Affairs that this Government cannot entertain his suggestion that it should compromise the issues involved in the Federal Wireless case. As was explained in the note dated July 1⁶⁵ in response to the inquiry addressed to this Government by the Chinese Minister under instructions from his Government, those issues involve the interpretation to be given to the principle of equality of commercial and industrial opportunity. That question is one of principle which this Government could not compromise without impairment of a policy which it has always consistently maintained and in which it has felt warranted in counting upon the support of the Chinese Government as being in fact the principal beneficiary of that policy. This Government feels keen disappointment that the Chinese Government is disposed to temporize and to dissociate itself from this Government's efforts towards clarifying the question of the open door and vindicating China's freedom of action in seeking the assistance of foreign finance and industry impartially. This defection of the Chinese Government appears the more incomprehensible in view of the Minister's connecting it with the forthcoming Washington conference, as this Government has been proceeding upon the assumption that its traditional open door policy is fully and loyally shared by the Government of China.

You will therefore inquire of the Minister for Foreign Affairs

First—whether the Chinese Government does or does not regard itself as pledged to the principle of the open door;

Second—whether it approves or dissents from such constructions of that principle as were embodied in this Government's note of July 1 to the Chinese Minister; and

Third—whether the Chinese Government would or would not welcome and support any such further efforts as this Government may find it expedient to make in furtherance of the open door policy as thus construed.

⁶⁵ *Ante*, p. 439.

A prompt reply is essential in view of matters now under consideration.

HUGHES

893.74/175 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

[Paraphrase]

PEKING, *September 2, 1921—6 p.m.*

[Received September 3—10:01 a.m.]

308. With reference to your telegram of August 28 [29], no. 242, the Cabinet is considering the matter. An interview with the Minister for Foreign Affairs gave me a stronger impression of timidity, the powerlessness of the Central Government confronted by Japanese and British pressure, and the reluctance of the Peking Government, in this instance, to face the logical consequences of an active espousal of the policy of the Open Door. Minister for Foreign Affairs asked me what the Chinese Government was to do when faced with such protests. He tried to circumvent the relation between the policy of the Open Door and the Federal Telegraph issue and stated that China desired British-American cooperation at the Conference as both Governments had declared themselves as favoring the policy of the Open Door, while on the other hand the Federal Telegraph question engendered antagonism. Yen asked me if the American Government anticipated going to all lengths to support the Open-Door policy. He also inquired what attitude the United States now took regarding the article in the Lansing-Ishii Agreement⁶⁶ referring to special interests. Yen referred to proposed exchange of views in connection with invitation to the Conference at Washington. He said he had not received any suggestion as to the intentions of the State Department or as to the questions which could be presented without embarrassment to American plans, or regarding the number of delegates.

RUDDOCK

893.74/188

The Chargé in Japan (Bell) to the Secretary of State

No. 919

TOKYO, *September 3, 1921.*

[Received October 1.]

SIR: I have the honor to inform you that I have received a copy of the confidential despatch from the American Chargé d'Affaires at Peking dated July 27, 1921, No. 1426,⁶⁷ regarding a report to the

⁶⁶ *Foreign Relations*, 1917, pp. 264, 265.

⁶⁷ Not printed.

effect that the Mitsui wireless contract is in fact an agreement between the Japanese Department of Communications and the Chinese Government and to state that as a result of discreet inquiries made in official circles I learn that although the Japanese Government is ready to back this contract to the fullest extent it is not technically a party to the contract.

I have [etc.]

EDWARD BELL

893.74/177 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

[Paraphrase]

PEKING, *September 7, 1921—10 p.m.*

[Received September 7—4:20 p.m.]

315. My telegram 308 of September 2. An entire week having elapsed, I insisted that Minister for Foreign Affairs give me an answer today. His position of over a week ago has undergone virtually no change. The Chinese Government, he stated, of course, gave affirmative reply to the three questions raised in the Department's telegram 242 of August 29. However, he insisted that the execution of the Federal Telegraph Company's contract and the policy of the Open Door were two separate things; and further declared that since the representations of the American Government to Japan and Great Britain had failed to obtain discontinuance of protests, his Government must be allowed time to secure either the retraction of those protests or at least gain assurances that, by disregarding protests, no serious consequences would ensue through the execution of the Federal Company's contract. He added that the Minister of Communications was now making an effort toward this end. . . .

RUDDOCK

893.74/193

The Minister in China (Schurman) to the Secretary of State

No. 37

PEKING, *September 27, 1921.*

[Received November 2.]

SIR: Referring to the Legation's despatch No. 1575, of September 7, 1921,⁶⁸ I have the honor to report that the Supplementary Articles⁶⁸ concerned with the issuance of bonds in connection with the

⁶⁸ Not printed.

execution of the wireless contract signed between the Chinese Government and the Federal Telegraph Company of California on January 8, 1921, were duly signed by the Minister of Communications and the Representative of the Company, Mr. Barnes Moss, on September 19, 1921.

Both the Minister of Communications and the Premier have expressed to the Legation their regret at the long delay that took place between the signing of the original contract and the signing of the Supplementary Articles, and explained that this delay was not occasioned in any sense by a lack of desire on the part of the Chinese Government to execute the contract, but was due to a variety of complications which required consideration before further steps were taken. As a matter of fact, party politics and personal antipathies, the Legation is convinced, operated to a large extent to prevent the speedy execution of the contract of January 8, 1921, and I am further convinced that had it not been for the extremely firm stand taken by the American Government and its allusion to the whole Open Door Policy in this connection, as well as for the efforts of the Legation during the nine months of negotiations, the contract might very well have been abandoned by the Chinese Government. The far-reaching effect that such an action would have had on the international situation in the Orient is quite apparent to the Department and need not be discussed here. It is likewise unnecessary to recount in any greater detail the various vicissitudes through which the negotiations passed prior to their successful termination on September 19, 1921. It may, however, be remarked that the Chinese official world and the general public appear to welcome the Federal wireless contract with great heartiness, and the protests so vigorously maintained by the British, Japanese, and Danish Governments are not now greatly in evidence.

There is nevertheless another aspect of the matter that should in justice be alluded to. The protests of the Governments opposed to the American wireless contract, especially those of Great Britain and Japan, evidently inspired in the minds of the Cabinet members feelings of the most serious apprehension. While they undoubtedly desired the goodwill of the United States at the Pacific Conference, one of them at least, I am confidentially informed, maintained that American assistance would be valueless, inasmuch as the United States had been powerless to silence the British and Japanese opposition. It was felt that, while the United States might be in a position to ignore the hostile attitude of these nations, China could not, and the Legation was more than once impressed with the idea that perhaps the Cabinet was waiting for some confidential assur-

ance of support from our Government before deciding definitely in favor of the American interests. In more than one direction the present personnel of the Chinese Government is anxious for a close understanding with the United States and regards the institution and operation of the Federal Radio Stations as an important agency of coöperation between the two Governments and peoples. This enterprise therefore may well be regarded by the American Government also as a powerful agency that should be fully utilized for increasing the intimacy both of the Governments and the peoples of the two nations. From all aspects, political, military, and commercial, the conclusion of this contract is a cause for the greatest satisfaction.

I have [etc.]

JACOB GOULD SCHURMAN

893.74/191

The Minister in Denmark (Grew) to the Secretary of State

No. 380

COPENHAGEN, *October 12, 1921.*

[Received October 27.]

SIR: With reference to my telegram No. 73 of October 11th, 9 p.m.,⁶⁹ relating to the protest lodged with the Chinese Government by the Danish Legation at Peking against the contract signed with the Chinese Government by the Federal Telegraph Company, I have the honor to report that, in spite of my oral representations, as instructed in the Department's telegram No. 31, of July 1, 6 p.m.,⁷⁰ to the effect that the discussion of this case appeared to have covered all relevant issues and that the Government of the United States considered it unnecessary to pursue the question further, the Legation has received a further note from the Foreign Office in which the Danish Government persists in its intention to maintain its protest lodged with the Chinese Government against the Federal Telegraph Company's contract.

A copy of the note, which is under date of October 10th, 1921, is transmitted herewith. The Legation will withhold its reply to this note from the Foreign Office pending further instructions from the Department.

I have [etc.]

J. C. GREW

⁶⁹ Not printed.

⁷⁰ *Ante*, p. 442.

[Enclosure]

*The Danish Minister for Foreign Affairs (Scavenius) to the American Minister (Grew)*COPENHAGEN, *October 10, 1921.*

MONSIEUR LE MINISTRE: In your note no. 104 of July 5th ⁷¹ concerning the protest lodged with the Chinese Government by the Danish Legation at Peking against the contract signed with the Chinese Government by the Federal Telegraph Company you were good enough, under instructions from your Government, to inform me that it is not the intention of the American Government to contend that the contractual rights of the Great Northern Telegraph Company are to be retroactively annulled or that they are to be held invalid by reason of anterior treaty stipulations, save in so far as they are based upon concessions which were actually in excess of the power of the Chinese Government to make. On this latter point you refer to art. 15 of the American treaty of 1844, by which the Chinese Government undertakes that American citizens in China "are not to be impeded in their business by monopolies or other injurious restrictions".

In reply to your note I have the honour to inform you that the Danish Government cannot admit that art. 15 of the American treaty of 1844 prevents the Chinese Government from granting concessions similar to that granted to the Danish company, but contends that the said article solely pledges the Chinese Government to establish and preserve the freedom of commerce in China.

The treaties signed with China by several states in the period 1842-44 intended to deliver the commerce in China from the oppressing monopoly of the so-called Hong-merchants, and to guard against the revival of similar monopolies. This clearly appears from the text of the articles in question, see art. V in the British treaty of 29th August 1842 ("the Emperor of China agrees to abolish the practice in future"), art. IX in the French treaty of 24th October 1844 ("Aucune autre société privilégiée ne pourra désormais s'établir non plus qu'aucune coalition organisée dans le but d'exercer un monopole sur le commerce"), and art. XV in the Swedish-Norwegian treaty of March 20th, 1847, which is verbally identical with art. 15 in the American treaty. That the actual aim of this treaty was to abolish the commercial monopolies is also seen from the passage quoted below, contained in a note dated June 21st 1844 ⁷² to the Chinese ne-

⁷¹ See telegram no. 31, July 1, to the Minister in Denmark, p. 442.

⁷² MS., Despatches from China, vol. 2, p. 309.

gotiator Kiyung [*T'siyeng*] from the American negotiator Cushing, to wit: "The American Government would like perfect reciprocity in all commercial relations, involving no export duties; but accepted the plan arranged with the English, and would only propose such articles as may procure to the citizens of the United States a free and secure commerce in the ports open to the nations of the West."

The diplomatic correspondence previous to the treaties 1842-44, fully confirm the view that the freedom of commerce and the abolishment of commercial monopolies were the main points in the negotiations with China, not only in the said period, but up to the Tientsin-treaties of 1858, and the same view is held by the American historiography, *vide* Hosea B. Morse *The International Relations of the Chinese Empire. The Period of Conflict 1834-1860* pag. 307 and pag. 563.

Art. 15 of the American treaty of 1844 thus only precludes the Chinese Government from granting commercial monopolies but cannot be taken to prevent the said Government from regulating activities of a specific nature, such as for instance telegraph service, railways, etc. by way of concessions.

With reference to the above and once more directing your kind attention to the observations set forth in my note of the 23rd [*29th?*]⁷³ of March last I venture to express the confident hope that the American Government will realize that the Danish Government must protect the legitimate and well-acquired rights of the Great Northern Telegraph Company in China by maintaining the protest lodged with the Chinese Government against the Federal Telegraph Company's contract.

I avail myself [etc.]

HARALD SCAVENIUS

893.74/196 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, November 14, 1921—7 p.m.

[Received November 14—4:35 p.m.]

396. An official in the Ministry of Communications and a representative of Moss inform me that the recent default of the Chinese Government may render it impossible to secure funds for the Federal wireless contract. American prestige would be gravely injured should this contract fail to be financed as it is a sound business project unconnected with the solvency of the Chinese Government. The Department's good offices to ensure success are urgently requested.

SCHURMAN

⁷³ *Ante*, p. 422.

893.74/196 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, November 29, 1921—2 p.m.

307. Your 396, November 14, 7 p.m.

President Federal Telegraph Company states that banking connections of Company, outside of Consortium are waiting to see what China will do in regard to the recent default of the Chicago Bank loan. Company's first financial arrangement was upset by default and it can only wait to see what attitude China assumes to restore its credit. You may use your discretion in making such confidential use of the above as may seem necessary in your discussions with Chinese authorities.

HUGHES

893.74/198 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 2, 1921—6 p.m.

[Received December 2—10:55 a.m.]

428. British Minister handed note two days ago to the Minister for Foreign Affairs protesting against Federal wireless contract [and?] Government's breach of faith. Yen renewed to me today hope formerly expressed that American Government could find solution.

SCHURMAN

893.74/200 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, December 5, 1921—9 p.m.

[Received December 5—4:45 p.m.]

432. With reference to the Department's telegram 307, of November 29, I feel a great disinclination to intimate the views of the Federal Telegraph Company to the Chinese Government. The Legation's correspondence transmitted to the Department shows the support which both the Department and the Legation have given to the Company. The Chinese Government has been assured that the scheme would be a complete financial success and that it, furthermore, represents very important American national interests to assure free communications between China and the United States. The need of public issue was never mentioned to the Chinese Government and Federal Telegraph Company's representative, Moss, at Peking, repeatedly assured this Legation that no public issue would be neces-

sary. Under the circumstances the Chinese Government would fail to accept the Federal Telegraph Company's excuses or to understand them and they would claim that there exists no connection between the execution of the contract and the Chinese loan default. It would be regarded by the Chinese Government as another American failure in this country, and as conclusive proof that America does a great deal of talking and accomplishes very little in China. The Legation's position would be seriously injured. Might it not be possible for the Federal Telegraph Company to procure aid from the War Finance Corporation as the Federal Telegraph Company's representative stated would be assured if requisite? This matter vitally important to American prestige in China in my opinion.

SCHURMAN

893.74/202 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, December 7, 1921—5 p.m.

[Received December 7—10:28 a.m.]

437. My 428, December 2, 6 p.m. Text of British protest November 30th furnished its purport following quoted for your information:

"The Chinese Government have thus not only deliberately and after due warning insisted on infringing two agreements with British companies but they have also been guilty of a breach of faith towards His Majesty's Government in consummating the agreement with the Federal Company without waiting for the issue of the discussions between the State Department and the British Embassy at Washington."

In connection with second accusation, see 1452, August 3rd.⁷⁴ Protest also asserts students trained by Marconi transferred Federal works although needed on Marconi installations in China.

SCHURMAN

893.74/200 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, December 16, 1921—5 p.m.

330. Your 432, December 5, 9 p.m.

Schwerin now on way to Washington for conference with Department. Pending further instruction you may withhold action on Department's telegram 307 November 29, 2 p.m.

HUGHES

⁷⁴ Not printed.

POSTPONEMENT OF FURTHER REVISION OF THE CHINESE
CUSTOMS SCHEDULE⁷⁵

693.003/632 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 12, 1921—noon.

[Received July 12—6:55 a.m.]

256. Your 157, June 28th [26th], 6 p.m., 1920.⁷⁶ Chinese Government now requests Governments concerned to proceed in perfect accord with second revision of customs schedule to effective 5 percent as provided by commission of 1918. No reference made to likin abolition.

Request authorization indicate assent if other powers agree.

RUDDOCK

693.003/632 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 30, 1921—3 p.m.

214. Your 256, July 12, noon.

You may join representatives of other Treaty Powers in accepting proposal for a conference to consider a revision of tariff schedules. Such revised tariff would have eventually to be incorporated in a convention and submitted to the Senate for ratification.

HUGHES

693.003/653 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, November 22, 1921—noon.

[Received November 22—9:14 a.m.]

412. Legation's despatch no. 1393, July 15th last.⁷⁷ Chinese Government now proposes, in the absence of replies from all powers to its note of June 18, 1921,⁷⁸ that pending revision of the tariff there should be temporary surcharge 25 percent present tariff to make up deficiency. Government asserts proposed surcharge would not produce effective 5 percent thus not contravening treaties and states

⁷⁵ For previous correspondence concerning increase in customs rates, see *Foreign Relations*, 1920, vol. I, pp. 731 ff.

⁷⁶ *Ibid.*, p. 735.

⁷⁷ Not printed; see telegram no. 256, July 12, from the Chargé in China, *supra*.

⁷⁸ Not printed.

that with the proceeds would issue public loan 50 million of which 20 for regulation of foreign loans, 30 domestic loans. Requests early favorable reply. No mention made of any measure for the control. Please instruct.

SCHURMAN

693.003/653 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, November 25, 1921—5 p.m.

302. Your 412, November 22, noon.

Question of revenues of Chinese Government, especially customs tariff, now being considered by the Committee on Far Eastern Affairs of the Conference on Limitation Armament. Pending further consideration of Chinese fiscal policies by the Conference, it would seem premature for the Department to consider at this time the imposition of the proposed surcharge.

HUGHES

**TARIFF TREATY BETWEEN THE UNITED STATES AND CHINA,
OCTOBER 20, 1920, CONFIRMING A FIVE PERCENT AD VALOREM
DUTY ON GOODS IMPORTED INTO CHINA BY CITIZENS OF THE
UNITED STATES "**

693.003/573 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, October 13, 1920—7 p.m.

279. Your telegram November 13th, 5 p.m.⁸⁰ Department hopes signature of Tariff Convention may be effected by Koo⁸¹ before his departure. It is assumed that full powers previously given Yung Kwai when Chargé d'Affaires will suffice for signature by Koo. Please ascertain whether that is agreeable to the Foreign Office. The Department hopes for a favorable reply in time to arrange for signature on or about October 19th.

COLBY

⁷⁹ For previous correspondence concerning tariff revision, see *Foreign Relations*, 1919, vol. I, pp. 640 ff.

⁸⁰ *Ibid.*, p. 666.

⁸¹ V. K. Wellington Koo, Chinese Minister at Washington.

693.003/587

The Chinese Minister (Wellington Koo) to the Secretary of State

WASHINGTON, October 15, 1920.

SIR: I have the honor to inform you that I have just received cable instructions from my Government, dated the 15th instant, empowering me to sign a treaty between China and the United States, giving effect to the new Chinese Import Tariff as revised by a Commission composed of delegates appointed by the Chinese Government and the Governments of the United States and other powers having treaties with China, which completed its work at Shanghai on the 20th day of December, 1918.

Accept [etc.]

VI KYUIN WELLINGTON KOO

Treaty Series, No. 657

*Treaty between the United States of America and the Republic of China, Signed at Washington, October 20, 1920*⁸²

WHEREAS, it was agreed by Article VI(e), 1, and 3, of the Final Protocol entered into between the Powers and China, concluded at Peking, September 7, 1901,⁸³ that the import tariff on goods imported into China by sea should be an effective five per cent. *ad valorem*;

AND WHEREAS, following the conclusion of said Protocol, and pursuant to the provisions of the first paragraph of Article XI thereof, a Treaty regarding Commercial Relations between the Government of the United States of America and the Government of China was concluded at Shanghai on the 8th day of October, 1903,⁸⁴ ratifications of which were duly exchanged on the 13th day of January, 1904;

AND WHEREAS, by Article V and Annex III of the said treaty it was agreed that the tariff of duties to be paid by the citizens of the United States of America on goods imported into China should be as set forth in the schedule annexed to and made a part of that Treaty as Annex III thereof, subject only to such amendments and changes as were authorized by Article IV of that treaty or as might thereafter be agreed upon by the High Contracting Parties, and that the

⁸² In Chinese and English; Chinese text not printed. Ratification advised by the Senate, May 26, 1921; ratified by the President, Oct. 31, 1921; ratified by China, Jan. 4, 1921; ratifications exchanged at Washington, Nov. 5, 1921; proclaimed, Nov. 7, 1921.

⁸³ For text of final protocol, see *Foreign Relations*, 1901, app. (Affairs in China), p. 312.

⁸⁴ For text of treaty, see *Foreign Relations*, 1903, p. 91.

citizens of the United States of America should at no time pay other or higher duties on goods imported into China than those paid by the citizens or subjects of the most favored nation;

AND WHEREAS, a commission composed of delegates of the governments of the United States of America and certain other powers having treaties with China regarding the duties to be paid by their citizens or subjects on imports into China, and delegates of the Republic of China has, at various conferences held at Shanghai between the 17th day of January, 1918, and the 20th day of December, 1918, agreed upon a proposed revision of the import tariff of China to the end that the rate of duty may be an effective five per cent. *ad valorem* on all foreign merchandise imported into China;

AND WHEREAS, the Government of the United States of America and the Government of the Republic of China desire to confirm the application of the proposed revised tariff of duties to importations of goods into China by citizens of the United States, the two Governments have determined to conclude this supplementary treaty, and have appointed for that purpose as their plenipotentiaries:

The President of the United States of America, Mr. Bainbridge Colby, Secretary of State of the United States; and

The President of the Republic of China, Mr. Vi Kyuin Wellington Koo, envoy extraordinary and minister plenipotentiary of the Republic of China at Washington;

Who, having met and duly exhibited to each other their full powers, which were found to be in proper form, have agreed upon the following articles:

ARTICLE I

The tariff of duties, which under the provisions of Article V of the Treaty regarding Commercial Relations signed by the plenipotentiaries of the United States of America and China at Shanghai on the 8th day of October, 1903, are annexed to and made a part of that treaty, as Annex III thereof, shall, beginning with the date of the exchange of ratifications of the present treaty, cease to apply to goods imported into China by citizens of the United States of America.

The rules attached to the schedule of duties annexed to the Treaty regarding Commercial Relations signed by the plenipotentiaries of the United States of America and China at Shanghai on the 8th day of October, 1903, are amended as agreed upon by the High Contracting Parties and as so amended are hereunto annexed and continued in full force and effect.

ARTICLE II

The tariff of duties and the rules hereunto annexed, shall beginning with the date of the exchange of ratifications of the present treaty be in full force and effect at the ports and places of China open to commerce with foreign countries, and beginning with the date of the exchange of ratifications the said duties shall be paid by citizens of the United States of America on goods imported into China, until modified or changed by agreement between the two High Contracting Parties; but the citizens of the United States of America shall at no time be required to pay other or higher duties on goods imported into China than are paid by the citizens or subjects of the most favored nation.

ARTICLE III

Except as provided in Articles I and II of the present treaty, the articles and provisions of the treaty signed at Shanghai, October 8, 1903, between the plenipotentiaries of the United States of America and China, shall continue in full force and effect, and the articles and provisions of the present treaty shall be read and construed as a supplementary treaty thereto, and shall be as binding and of the same efficacy as if they had been inserted therein.

ARTICLE IV

In the event of there being any difference of meaning between the English and Chinese texts of the present treaty, the English text shall be held to be the correct one.

This treaty and the tariff of duties and rules hereunto annexed shall be ratified by the two High Contracting Parties in conformity with their respective constitutions, and the ratifications shall be exchanged at Washington.

IN TESTIMONY WHEREOF, the plenipotentiaries of the two High Contracting Parties, by virtue of their respective powers, have signed this treaty in duplicate in the English and Chinese languages, and have affixed their respective seals.

DONE at Washington this twentieth day of October in the year one thousand nine hundred and twenty, corresponding to the twentieth day of the tenth month of the ninth year of the Republic of China.

[SEAL] BAINBRIDGE COLBY

[SEAL] VI KYUIN WELLINGTON KOO

ANNEX I
IMPORT TARIFF

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
COTTON AND COTTON GOODS				
1	Cotton Piece Goods, Grey:— Grey Shirtings and Sheetings, not over 40 ins. by 41 yds.:			
	(a) Weight 7 lb and under	Piece.....	1. 817	0. 091
	(b) Weight over 7 lb and not over 9 lb.	Piece.....	2. 681	0. 13
	(c) Weight over 9 lb and not over 11 lb.	Piece.....	3. 530	0. 18
2	Grey Shirtings and Sheetings, not over 40 ins. by 41 yds. and with more than 110 threads per square inch:			
	(a) Weight over 11 lb. and not over 12½ lb.	Piece.....	3. 933	0. 20
	(b) Weight over 12½ lb. and not over 15½ lb.	Piece.....	4. 668	0. 23
	(c) Weight over 15½ lb.-----	Piece.....	5. 400	0. 27
3	Grey Shirtings and Sheetings, not over 40 ins. by 41 yds. and with 110 threads or less per square inch:			
	(a) Weight over 11 lb. and not over 15½ lb.	Piece.....	3. 293	0. 16
	(b) Weight over 15½ lb.-----	Piece.....	4. 000	0. 20
4	Drills and Jeans, Grey, not over 31 ins. by 31 yds:	Piece.....	2. 960	0. 15
	Drills and Jeans, Grey, not over 31 ins. by 41 yds:			
5	(a) Weight 12¼ lb and under	Piece.....	3. 900	0. 20
	(b) Weight over 12¼ lb.-----	Piece.....	3. 215	0. 16
6	T-Cloths, Grey, not over 34 ins. by 25 yds:			
	(a) Weight 7 lb. and under	Piece.....	1. 722	0. 086
	(b) Weight over 7 lb.-----	Piece.....	2. 312	0. 12
7	T-Cloths, Grey, over 34 ins. but not over 37 ins. by 25 yds.	Piece.....	2. 900	0. 15
8	Imitation Native Cotton Cloth (including Machine-made), Grey, not over 24 ins. wide and with not more than 110 threads per square inch.	Picul.....	32. 400	1. 60
9	Cotton Flannel or Flannelette of Plain or Twill Weave, Grey:			
	(a) Not over 32 ins. by 31 yds.	Piece.....	3. 484	0. 17
	(b) Over 32 ins. but not over 40 ins. by 31 yds.	Piece.....	4. 800	0. 24

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
	Cotton Piece Goods, White or Dyed (irrespective of finish):—			
10	Plain White Shirtings and Sheetings, not over 37 ins. by 42 yds.	Piece-----	4. 183	0. 21
11	White Irishes, not over 37 ins. by 42 yds.	Piece-----	5. 096	0. 25
12	Drills and Jeans, White, not over 31 ins. by 32 yds.	Piece-----	3. 296	0. 16
13	Drills and Jeans, White, not over 31 ins. by 42 yds.	Piece-----	4. 348	0. 22
14	T-Cloths, White, and Mexicans, not over 32 ins. by 41 yds.	Piece-----	3. 614	0. 18
15	Dimities, Piqués, Vestings, Quiltings, and Bedford Cords, White, not over 30 ins. by 30 yds.	Piece-----	4. 749	0. 24
16	Cambrics, Lawns, and Muslins, White, Plain, not over 46 ins. by 12 yds.	Piece-----	0. 810	0. 041
17	Cambrics, Lawns, and Muslins, White, Figured, not over 46 ins. by 12 yds.	Value 5 per cent.-----		
18	Cambrics, Lawns, and Muslins, Dyed, Plain or Figured, not over 46 ins. by 12 yds.	Value 5 per cent.-----		
19	White or Dyed, Plain or Figured Muslins, Lawns, Cambrics, Limbrics, Pongees, Brocades, and Striped, Spotted, Corded, and Figured Shirtings:			
	(a) Not over 30 ins. by 31 yds.	Piece-----	4. 443	0. 22
	(b) Over 30 ins. but not over 37 ins. by 42 yds.	Piece-----	5. 000	0. 25
20	Lenos, White or Dyed, not over 31 ins. by 30 yds.	Piece-----	2. 161	0. 11
21	Leno Brocades, White or Dyed	Value 5 per cent.-----		
22	Dyed Shirtings and Sheetings, Plain:			
	(a) Not over 30 ins. by 33 yds.	Piece-----	2. 7555	0. 14
	(b) Not over 30 ins. and over 33 yds., but not over 43 yds.	Piece-----	3. 5905	0. 18
	(c) Not over 36 ins. by 21 yds.	Piece-----	2. 1048	0. 11
	(d) Not over 36 ins. and over 21 yds. but not over 33 yds.	Piece-----	3. 30759	0. 17
	(e) Not over 36 ins. and over 33 yds. but not over 43 yds.	Piece-----	4. 30989	0. 22

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
	Cotton Piece Goods, White or Dyed, etc.—Continued.			
23	Dyed Drills and Jeans, Plain:			
	(a) Not over 31 ins. by 33 yds.	Piece-----	3. 600	0. 18
	(b) Not over 31 ins. and over 33 yds. but not over 43 yds.	Piece-----	4. 676	0. 23
24	Dyed T-Cloths, Embossed Cantoons, Alpaccanos, Real and Imitation, Turkey Reds, not over 32 ins. by 25 yds.:			
	(a) Weight 3¼ lb. and under.	Piece-----	1. 889	0. 094
	(b) Weight over 3¼ lb. but not over 5¼ lb.	Piece-----	2. 400	0. 12
	(c) Weight over 5¼ lb.	Piece-----	3. 320	0. 17
25	Mercerized Crimps, White, Dyed, or Printed, Plain or Figured, not over 32 ins. by 32 yds.	Piece-----	5. 478	0. 27
26	Oatmeal Crapes, White or Dyed, Plain or Figured, not over 33 ins. by 33 yds.	Piece-----	5. 265	0. 26
27	Cotton Crape (excluding Oatmeal Crapes), Grey, Bleached, Dyed, Printed, Or Dyed in the Yarn:			
	(a) Not over 15 ins. wide.	Value 5 per cent		
	(b) Over 15 ins. but not over 30 ins. wide.	Yard-----	0. 106	0. 0053
28	Lastings, Italians, Satteens, Ribs, Cords, Moreens, Beatrice Twills, Tientsin Twills, Satteen Drills, Satteen Stripes, Repps, and Imitation (Weft-faced) Venetians, White or Dyed, Plain or Figured, not over 33 ins. by 33 yds.	Piece-----	4. 540	0. 23
29	Poplins and Venetians, White or Dyed, Plain, not over 33 ins. by 33 yds.	Piece-----	8. 0946	0. 40

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
30	Cotton Piece Goods, White or Dyed, etc.—Continued. Poplins and Venetians, White or Dyed, Figured, not over 33 ins. by 33 yds.	Piece-----	10. 000	0. 50
31	Cotton Flannel or Flannelette of Plain or Twill Weave: (1) White, Dyed, or Printed, or Dyed in the Yarn, exclusive of Duplex or Reversible Prints: (a) Not over 25 ins. by 15 yds (b) Over 25 ins. but not over 30 ins. by 15 yds. (c) Over 25 ins. but not over 31 ins. by 31 yds. (d) Over 30 ins. but not over 36 ins. by 15 yds. (e) Over 30 ins. but not over 36 ins. by 31 yds.	Piece----- Piece----- Piece----- Piece----- Piece-----	1. 400 1. 700 3. 600 2. 000 4. 300	0. 07 0. 085 0. 18 0. 10 0. 22
	(2) Duplex or Reversible Prints	Value 5 per cent		-----
32	Dyed Cotton Spanish Stripes: (a) Not over 32 ins. by 20 yds. (b) Over 32 ins. but not over 64 ins. by 20 yds.	Piece----- Piece-----	2. 241 4. 482	0. 11 0. 22
33	Dyed Cotton Velvets and Velveteens, Plain, not over 26 ins. wide.	Yard-----	0. 2884	0. 014
34	Cotton Velvets and Velveteens, Printed, Figured, or Embossed, Velvet and Velveteen Cords, Corduroys, Fustians, Moleskins, and Plushes.	Value 5 per cent		-----
35	Canvas, Cotton (including Cotton Duck), for sails, etc.	Yard-----	0. 300	0. 015
36	Stockinet or Knitted Tissue: (a) Raised----- (b) Not Raised-----	Picul----- Value 5 per cent	44. 000	2. 20 -----

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
37	Cotton Piece Goods, Printed:— Printed Cambrics, Printed Lawns, Printed Muslins, Printed Shirtings, Printed Sheetings, Printed T- Cloths, (including those known as Blue and White Printed T-Cloths), Printed Drills, Printed Jeans, Printed Diagonal Twills, Twill Cretonnes, Printed Silecias, Printed Repps (ex- cluding Repp Cretonnes):			
	(a) Not over 20 ins. wide----	Value 5 per cent.	-----	-----
	(b) Over 20 ins. but not over 46 ins. by 12 yds.	Piece-----	1. 020	0. 051
	(c) Over 20 ins. but not over 32 ins. by 30 yds.	Piece-----	2. 302	0. 12
	(d) Over 32 ins. but not over 42 ins. by 30 yds.	Piece-----	3. 094	0. 15
	Printed Mercerized Crimps. See No. 25.			
38	Printed Oatmeal Crapes and Oatmeal Crape Cretonnes, Not over 32 ins. by 30 yds. Printed Cotton Crape. See No. 27.	Piece-----	2. 705	0. 14
39	Printed Turkey Reds, Real and Imitation, not over 31 ins. by 25 yds.	Piece-----	2. 068	0. 10
40	Printed Lenos, not over 31 ins. by 30 yds.	Piece-----	2. 350	0. 12
41	Printed Satteens and Satinets, Printed Brocades (includ- ing Printed Fancy Woven Stripes or checks), Printed Italians, Printed Damasks, Printed Venetians, Printed Lastings, Printed Beatrice Twill, Printed Cords, Print- ed Poplins, Printed Mo- reens, not over 32 ins. by 30 yds.	Piece-----	5. 000	0. 25
42	Printed Flanellette. See No. 31. Duplex or Reversible Prints of Shirting Weave and one colour only, not over 32 ins. by 30 yd. Printed Velvets and Velveteens. See No. 34	Piece-----	3. 000	0. 15

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
43	<p>Cotton Piece Goods, Printed, etc.—Continued.</p> <p>Printed Domestic Cretonnes, Printed Satteen Cretonnes, Printed Repp Cretonnes, Printed Embossed Figures, Printed Art Muslins and Casement Cloth, Printed Cotton Coatings, Trouserings, and Gabardines, and all other Duplex or Reversible Prints except those enumerated in Classes 37 and 42.</p> <p>Printed blankets. See No. 45. Printed Handkerchiefs. See No. 48.</p> <p>The term "Printed" in this Tariff includes Pigment Style, Direct Printing Style, Steam Style, Discharge Style, Madder or Dyed Style, Resist Style, Resist Pad Style, Metal Style, and so forth, irrespective of finish.</p> <p>The term "Duplex or Reversible Print" in this Tariff includes all Printed Cottons having (a) a different pattern printed on each side of the cloth, (b) the same design on both sides of the cloth, whether printed with one or more rollers.</p> <p>Cotton Piece Goods, Yarn-dyed: Cotton Crape, See No. 27. Cotton Flannel, or Flannelette. See No. 31. Stockinet. See No. 36. Not otherwise enumerated</p>	Value 5 per cent	-----	-----
	Cotton Piece Goods, not otherwise enumerated.	Value 5 per cent	-----	-----
44	<p>Cotton, Raw, Cotton Thread, Cotton Yarn, and Goods made of Cotton:—</p> <p>Ankle Bands, Plain or Decorated</p> <p>Bags, new, See No. 529</p>	Picul.----- Picul.-----	80. 000 40. 000	4. 00 2. 00

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
45	Cotton, Raw, etc.—Continued. Blankets, Plain, Printed, or Jacquard (including those with a taped or whipped edge of Silk or other material), and Blanket Cloth. Canvas. See No. 35. Crape. See No. 27.	Picul.....	40. 000	2. 00
46	Counterpanes, Honeycomb or Alhambra: (a) Not over 2½ yds. long.... (b) Over 2½ yds. long.....	Picul..... Value 5 per cent.	45. 000	2. 25
47	Embroidered Edging or Inser- tion, Machine-Made. Flanelette. See No. 31.	Value 5 per cent.		
48	Handkerchiefs, neither Em- broidered nor Initialed: (1) White, Dyed, or Printed, Hemmed, (but not with a drawn-thread hem): (a) Not over 13 ins. square... (b) Over 13 ins. square but not over 18 ins. square.... (c) Over 18 ins. square but not over 30 ins. square.... (2) White, Dyed, or Printed, with drawn-thread hem: (a) Not over 13 ins. square... (b) Over 13 ins. square but not over 18 ins. square.... (c) Over 18 ins. square, but not over 30 ins. square.... (3) Printed handkerchiefs, Unhemmed: (a) Not over 18 ins. square... (b) Over 18 ins. square but not over 25 ins. square.... (c) Over 25 ins. square, but not over 29 ins. square.... (d) Over 29 ins. square but not over 34 ins. square....	Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen..... Dozen.....	0. 220 0. 360 0. 530 0. 360 0. 750 0. 920 0. 190 0. 640 0. 800 1. 030	0. 011 0. 018 0. 027 0. 018 0. 038 0. 046 0. 01 0. 032 0. 04 0. 052
49	Knitted Clothing, Raised, (in- cluding that stitched with silk thread and with fac- ings of silk or other ma- terial).....	Picul.....	74. 000	3. 70
50	Raw Cotton.....	Picul.....	16. 000	0. 80

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	COTTON AND COTTON GOODS— continued			
51	Cotton, Raw, etc.—Continued. Singlets or Drawers, not Raised (including those stitched with Silk Thread and with facings of Silk or other material)-----	Dozen-----	2 800	0 14
52	Socks and Stockings: (a) Not Raised on either side: (1) Made of Ungassed or Unmercerized Thread-----	Picul-----	70 000	3 50
	(2) Made of Gassed or Mercerized Thread or stitched or embroidered with Silk-----	Picul-----	150 000	7 50
	(b) Raised-----	Value 5 per cent.		
	(c) Others-----	Value 5 per cent.		
53	Stockinet. See No. 36. Towels: (a) Turkish-----	Picul-----	50 000	2 50
	(b) Honeycomb or Hucka- back-----	Picul-----	44 000	2 20
54	Thread, Dyed or Undyed (irre- spective of finish:—) (1) Sewing Cotton: (a) In Balls or skeins: 3-cord-----	Picul-----	100 000	5 00
	6-cord-----	Picul-----	190 000	9 50
	(b) On spools or cops: 2-cord, 50 yds. or less-----	Gross-----	0 586	0 029
	3-cord, 50 yds. or less-----	Gross-----	0 788	0 039
	6-cord, 50 yds. or less-----	Gross-----	1 458	0 073
	Other lengths in pro- portion.			
	(2) Crochet or Embroidery Cotton, in skeins or balls-----	Picul-----	82 449	4 10
55	Waste Cotton-----	Picul-----	9 600	0 48
56	Yarn:— (1) Grey (irrespective of fold): (a) Counts up to and in- cluding 17-----	Picul-----	25 500	1 28
	(b) Counts above 17 and up to and including 23-----	Picul-----	27 668	1 38
	(c) Counts above 23 and up to and including 35-----	Picul-----	38 000	1 90
	(d) Counts above 35 and up to and including 45-----	Picul-----	43 600	2 18
	(e) Counts above 45-----	Value 5 per cent.		
	(2) Dyed, Bleached, Gassed, Mercerized, etc-----	Value 5 per cent.		

ANNEX I—Continued

IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	WOOL, SILK, LINEN, AND HEMP GOODS			
	Flax, Hemp, and Jute Goods:—			
57	Gunny Bags, New.....	Picul.....	8. 480	0. 42
58	Gunny Bags, Old.....	Value 5 per cent.....		
59	Hemp.....	Picul.....	14. 000	0. 70
60	Hemp or Hessian Bags, New.....	Picul.....	18. 900	0. 95
61	Hemp or Hessian Bags, Old.....	Value 5 per cent.....		
62	Hessian Cloth.....	Picul.....	18. 000	0. 90
63	Canvas of Hemp and Jute for Sails, etc.....	Yard.....	0. 38165	0. 019
64	Canvas Linen (elastic), for Tailoring.....	Value 5 per cent.....		
65	Tarpaulin of Hemp or Jute.....	Yard.....	0. 229	0. 011
	Silk Goods and Silk Mixtures:—			
66	Silk Piece Goods (all Silk), Plain, Figured, or Brocaded.....	Value 5 per cent.....		
67	Silk Plushes and Silk Velvets, Pure.....	Catty.....	10. 984	0. 55
68	Silk Seal, with cotton back.....	Catty.....	2. 9418	0. 15
69	Silk Socks and Stockings, Knit- ted (including those made of Artificial Silk).....	Catty.....	7. 000	0. 35
70	Silk Mixture Plushes and Vel- vets (i. e., made of silk mixed with other fibrous material, with Cotton back).....	Catty.....	2. 6537	0. 13
71	Silk and Cotton Satins, White or Dyed in the Piece: (a) Plain.....	Catty.....	2. 533	0. 13
	(b) Figured.....	Catty.....	3. 233	0. 16
72	Silk and Cotton Satins, Dyed in the yarn.....	Catty.....	4. 000	0. 20
73	Silk and Cotton Mixtures, not otherwise enumerated.....	Value 5 per cent.....		
74	Silk Ribbons, all Silk and Mix- tures.....	Value 5 per cent.....		
	Wool and Cotton Unions:—			
75	Union Shirtings, not over 33 ins. wide.....	Yard.....	0. 4853	0. 024
76	Cloth made of remanufactured Wool and Cotton, such as Meltons, Vicunas, Beavers, Army Cloths, Union Cloths, Leather Cloths, Presidents (including Cloth containing a small quantity of new Wool for facing purposes), not Over 56 ins. wide.....	Yard.....	0. 800	0. 04
77	Italian Cloth, Plain or Figured, Alpacas, Lustres, Orleans, and Sicilians.....	Value 5 per cent.....		

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	WOOL, SILK, LINEN, AND HEMP GOODS—continued			
	Wool and Woolen Goods:—			
78	Wool, Sheep's.....	Picul.....	17. 000	0. 85
79	Blankets and Rugs.....	Pound.....	0. 560	0. 028
80	Bunting, not over 24 ins. by 40 yds.	Piece.....	6. 560	0. 33
81	Camlets, not over 31 ins. by 62 yds.	Piece.....	15. 600	0. 78
82	Flannel, not over 33 ins. wide..	Yard.....	0. 480	0. 024
83	Lastings, Plain, Figured, or Craped, not over 31 ins. by 32 yds.	Piece.....	14. 620	0. 73
84	Llama Braid.....	Picul.....	150. 000	7. 50
85	Long Ells, not over 31 ins. by 25 yds.	Piece.....	6. 657	0. 33
86	Russian, Broad, Superfine, Me- dium, and Habit Cloth, not over 76 ins. wide.	Yard.....	1. 520	0. 076
87	Spanish Stripes, not over 64 ins. wide.	Yard.....	0. 636	0. 032
88	All Woolen and Worsted Yarn and Cord, including Berlin Wool.	Picul.....	120. 000	6. 00
	METALS			
89	Aluminium.....	Value 5 per cent.....	-----	-----
90	Aluminium Sheets.....	Value 5 per cent.....	-----	-----
91	Antifriction Metal.....	Value 5 per cent.....	-----	-----
92	Antimony Regulus and Refined...	Picul.....	14. 000	0. 70
93	Antimony Ore.....	Value 5 per cent.....	-----	-----
	Brass and Yellow Metal:—			
94	Bars and Rods.....	Picul.....	30. 183	1. 50
95	Bolts, Nuts, Rivets, Washers, and Accessories.	Value 5 per cent.....	-----	-----
96	Ingots.....	Picul.....	30. 183	1. 50
97	Nails.....	Picul.....	36. 765	1. 80
98	Old (fit only for remanufacture)..	Value 5 per cent.....	-----	-----
99	Screws.....	Value 5 per cent.....	-----	-----
100	Sheets and Plates.....	Picul.....	30. 183	1. 50
101	Tubes.....	Picul.....	47. 809	2. 40
102	Wire.....	Picul.....	30. 183	1. 50
	Copper:—			
103	Bars and Rods.....	Picul.....	33. 950	1. 70
104	Bolts, Nuts, Rivets, and Wash- ers.	Value 5 per cent.....	-----	-----
105	Ingots and Slabs.....	Picul.....	28. 000	1. 40
106	Nails.....	Picul.....	47. 385	2. 40
107	Old (fit only for remanufacture)..	Value 5 per cent.....	-----	-----
108	Sheets and Plates.....	Picul.....	33. 950	1. 70
109	Tacks.....	Value 5 per cent.....	-----	-----

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	METALS—continued			
	Copper—Continued.			
110	Tubes.....	Value 5 per cent.		
111	Wire.....	Picul.....	33. 950	1. 70
112	Wire Cable.....	Value 5 per cent.		
113	Wire Rope.....	Value 5 per cent.		
	Iron and Steel, Ungalvanized (not including Bamboo, Spring, and Tool Steel):—			
114	Anvils, Swage-blocks, Anchors, and Parts of, and Forgings (each weighing in every case 25 lb. or over.)	Picul.....	11. 484	0. 57
115	Bolts, Nuts, and Washers.....	Value 5 per cent.		
116	Castings, Rough.....	Picul.....	5. 132	0. 26
117	Chains, and Parts of.....	Picul.....	7. 667	0. 38
118	Cobbles, Wire Shorts, Defective Wire, Bar Croppings, and Bar Ends, Galvanized or Ungalvanized.	Picul.....	2. 658	0. 13
119	Crossings for Railways.....	Value 5 per cent.		
120	Fish-plates and Spikes.....	Value 5 per cent.		
121	Hoops.....	Picul.....	5. 451	0. 27
122	Old (fit only for remanufacture).	Picul.....	1. 946	0. 10
123	Nail-rod, Bars, Twisted or Deformed Bars, Tees, Chan- nels, Angles, Joists, Girders, and other Structural Sec- tions or Shapes.	Picul.....	4. 080	0. 20
124	Nails, Wire and Cut.....	Picul.....	5. 946	0. 30
125	Pig and Kentledge.....	Picul.....	2. 000	0. 10
126	Pipes, Tubes, and Pipe and Tube fittings.	Value 5 per cent.		
127	Plate Cuttings.....	Picul.....	2. 311	0. 12
128	Rails.....	Picul.....	3. 120	0. 16
129	Rivets.....	Picul.....	6. 287	0. 31
130	Screws.....	Value 5 per cent.		
131	Sheets and Plates $\frac{1}{8}$ of an inch thick or more.	Picul.....	4. 000	0. 20
132	Sheets and Plates under $\frac{1}{8}$ of an inch thick.	Picul.....	5. 000	0. 25
133	Tacks.....	Picul.....	9. 047	0. 45
134	Wire.....	Picul.....	5. 241	0. 26
135	Wire Rope, Galvanized or Un- galvanized, with or without fibre core.	Picul.....	14. 924	0. 75

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	METALS—continued			
	Steel, Tool and Spring:—			
136	Bamboo Steel.....	Picul.....	5. 486	0. 27
137	Spring Steel.....	Picul.....	6. 420	0. 32
138	Tool Steel (including High-speed Steel).	Value 5 per cent.....		
	Iron and Steel, Galvanized:—			
139	Bolts, Nuts, Rivets, and Washers.	Value 5 per cent.....		
140	Pipes, Tubes, and Tube fittings.	Value 5 per cent.....		
141	Screws.....	Value 5 per cent.....		
142	Sheets, Corrugated and Plain	Picul.....	7. 400	0. 37
143	Wire.....	Picul.....	6. 072	0. 30
	Wire Rope. See Ungalvanized.			
	Wire Shorts. See Ungalvanized.			
144	Iron and Tin Dross.....	Picul.....	6. 000	0. 30
	Lead:—			
145	Old (fit only for remanufacture)	Value 5 per cent.....		
146	Pigs or Bars.....	Picul.....	9. 000	0. 45
147	Pipe.....	Picul.....	9. 961	0. 50
148	Sheet.....	Picul.....	11. 834	0. 59
149	Wire.....	Value 5 per cent.....		
150	Manganese.....	Value 5 per cent.....		
151	Manganese, Ferro.....	Value 5 per cent.....		
152	Nickel.....	Picul.....	70. 000	3. 50
153	Quicksilver.....	Picul.....	126. 654	6. 30
	Tin:—			
154	Compound.....	Value 5 per cent.....		
155	Dross and Refuse.....	Picul.....	10. 885	0. 54
156	Ingots and Slabs.....	Picul.....	45. 462	2. 30
157	Pipe.....	Value 5 per cent.....		
158	Sheet.....	Picul.....	41. 208	2. 10
159	Tinned Tacks.....	Picul.....	9. 047	0. 45
160	Tinned Plates, Decorated.....	Picul.....	10. 176	0. 51
161	Tinned Plates, Plain.....	Picul.....	7. 800	0. 39
162	Tinned Plates, Old.....	Value 5 per cent.....		
163	Type Metal.....	Value 5 per cent.....		
	White Metal or German Silver:—			
164	Bars, Ingots, and Sheets.....	Picul.....	54. 531	2. 70
165	Wire.....	Picul.....	43. 444	2. 20
	Zinc:—			
166	Powder and Spelter.....	Picul.....	12. 946	0. 65
167	Sheets (including Perforated), Plates, and Boiler Plates.	Picul.....	16. 849	0. 84

ANNEX I—Continued

IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
FOOD, DRINK, AND MEDICINE				
Fishery and Sea Products:—				
168	Agar-agar.....	Picul.....	6. 000	0. 30
169	Awabi, in bulk.....	Picul.....	52. 500	2. 60
170	Bicho de Mar, Black, Spiked.....	Picul.....	53. 300	2. 70
171	Bicho de Mar, Black, Not Spiked.....	Picul.....	40. 000	2. 00
172	Bicho de Mar, White.....	Picul.....	20. 000	1. 00
173	Cockles, Dried.....	Picul.....	13. 822	0. 69
174	Cockles, Fresh.....	Picul.....	1. 200	0. 06
175	Compo.....	Picul.....	43. 000	2. 15
176	Crabs' Flesh, Dried.....	Picul.....	16. 518	0. 83
177	Fish Bones.....	Value 5 per cent.		
178	Fish, Cod, Dried.....	Picul.....	5. 800	0. 29
179	Fish, Cuttle.....	Picul.....	13. 600	0. 68
180	Fish, Dried, and Smoked (not including Dried Codfish and Cuttle-fish).	Picul.....	9. 739	0. 49
181	Fish, Fresh.....	Picul.....	6. 410	0. 32
182	Fish Maws, 1st Quality (i. e. weighing 1 catty or over per piece).	Catty.....	5. 000	0. 25
183	Fish Maws, 2nd Quality (i. e. weighing under 1 catty per piece).	Picul.....	56. 500	2. 80
184	Fish Salmon Bellies.....	Value 5 per cent.		
185	Fish, Salt.....	Picul.....	3. 600	0. 18
186	Fish Skin.....	Picul.....	12. 711	0. 64
187	Mussels, Oysters, and Clams, Dried.....	Picul.....	16. 000	0. 80
188	Prawns and Shrimps, Dried, in bulk.....	Picul.....	22. 000	1. 10
189	Seaweed, Cut.....	Picul.....	3. 334	0. 17
190	Seaweed, Long.....	Picul.....	2. 500	0. 13
191	Seaweed, Prepared.....	Picul.....	26. 000	1. 30
192	Seaweed, Red.....	Value 5 per cent.		
193	Sharks' Fins, Dorsal and Tail.....	Picul.....	88. 660	4. 40
194	Sharks' Fins, Breast Fins.....	Picul.....	37. 173	1. 90
195	Sharks' Fins, Prepared.....	Picul.....	128. 562	6. 40
196	Sharks' Skins.....	Value 5 per cent.		
Animal Products, Canned Goods, and Groceries:—				
197	Bacon and Hams, in bulk.....	Picul.....	35. 300	1. 80
198	Baking Powder.....	Value 5 per cent.		
199	Beef, Corned, or Pickled, in Barrels.....	Value 5 per cent.		
200	Birds' Nests, Black (including Clarified Refuse).	Catty.....	3. 000	0. 15
201	Birds' Nests, White.....	Catty.....	18. 276	0. 90
202	Butter.....	Picul.....	53. 000	2. 70

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	FOOD, DRINK, AND MEDICINE—CON.			
	Canned Goods:—			
203	Asparagus.....	Picul (Incl. weight of immediate packing).	17. 500	0. 88
204	Awabi.....	Picul.....	24. 000	1. 20
205	Cream and Milk, Evaporated or Sterilized.	Picul.....	13. 000	0. 65
206	Fruits, Table and Pie.....	Picul (Incl. weight of immediate packing).	14. 500	0. 73
207	Milk, Condensed.....	Picul.....	19. 200	0. 96
208	Canned Goods, Unenumerated	Value 5 per cent.	-----	-----
209	Chocolate.....	Value 5 per cent.	-----	-----
210	Cocoa.....	Value 5 per cent.	-----	-----
211	Coffee.....	Value 5 per cent.	-----	-----
212	Currants and Raisins, in bulk	Picul.....	12. 677	0. 63
213	Fruits, Preserved, in Glass, etc.	Value 5 per cent.	-----	-----
214	Honey.....	Value 5 per cent.	-----	-----
215	Jams and Jellies.....	Value 5 per cent.	-----	-----
216	Lard, in bulk.....	Value 5 per cent.	-----	-----
217	Macaroni and Vermicelli, in bulk.	Picul.....	9. 125	0. 46
218	Margarine.....	Value 5 per cent.	-----	-----
219	Meats, Dried and Salted	Value 5 per cent.	-----	-----
220	Pork Rind.....	Value 5 per cent.	-----	-----
221	Sausages, Dry.....	Value 5 per cent.	-----	-----
222	Soy.....	Picul.....	5. 000	0. 25
223	Tea.....	Value 5 per cent.	-----	-----
	Cereals, Fruits, Medicinal Substances, Seeds, Spices, and Vegetables:—			
224	Aniseed, Star:			
	(a) 1st Quality, Value Hks. Tls. 15 and over per picul.	Picul.....	20. 000	1. 00
	(b) 2nd Quality, Value under Hk. Tls. 15 per picul.	Picul.....	9. 000	0. 45
225	Apples, Fresh.....	Picul.....	5. 000	0. 25
226	Asafoetida.....	Value 5 per cent.	-----	-----
227	Barley, Pearl.....	Value 5 per cent.	-----	-----
228	Beans and Peas.....	Value 5 per cent.	-----	-----
229	Betelnuts, Dried.....	Picul.....	4. 700	0. 24
230	Betelnut Husk, Dried.....	Picul.....	2. 300	0. 12
231	Bran.....	Picul.....	1. 600	0. 08

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	FOOD, DRINK, AND MEDICINE—CON.			
232	Cereals, Fruits, etc.—Continued. Cereals and Flour (including Barley, Maize, Millet, Oats, Paddy, Rice, Wheat, and Flour made therefrom; also Buckwheat and Buckwheat Flour, Cornflour and Yellow Corn Meal, Rye Flour, and Hovis Flour; but not including Arrowroot and Arrowroot Flour, Cracked Wheat, Germea, Hominy, Pearl Barley, Potato Flour, Quaker Oats, Rolled Oats, Sago and Sago Flour, Shredded Wheat, Tapioca and Tapioca Flour, and Yam Flour).	-----	Free.	-----
233	Camphor, Crude and Refined (including shaped).	Picul-----	66. 000	3. 30
234	Camphor, Baroos, Clean-----	Catty-----	62. 000	3. 10
235	Camphor, Baroos, Refuse-----	Value 5 per cent-----	-----	-----
236	Capoor Cutchery-----	Value 5 per cent-----	-----	-----
237	Cardamom Husk-----	Picul-----	5. 000	0. 25
238	Cardamoms, Inferior-----	Picul-----	20. 000	1. 00
239	Cardamoms, Superior-----	Picul-----	200. 000	10. 00
240	Cassia Lignea and Buds-----	Picul-----	18. 000	0. 90
241	Cassia Twigs-----	Picul-----	3. 600	0. 18
242	Chestnuts-----	Value 5 per cent-----	-----	-----
243	China-root-----	Picul-----	14. 000	0. 70
244	Cinnamon, in bulk-----	Picul-----	100. 000	5. 00
245	Cloves, in bulk-----	Picul-----	18. 000	0. 90
246	Cloves, Mother-----	Picul-----	8. 000	0. 40
247	Cocaine-----	Value 5 per cent-----	-----	-----
248	Galangal-----	Picul-----	3. 700	0. 19
249	Ginseng, Clarified or Cleaned:			
	1st Quality (value over Hk. Tls. 25 per catty).	Catty-----	56. 000	2. 80
	2nd Quality (value over Hk. Tls. 11 and not over Hk. Tls. 25 per catty).	Catty-----	22. 000	1. 10
	3rd Quality (value over Hk. Tls. 3 and not over Hk. Tls. 11 per catty).	Catty-----	7. 200	0. 36
	4th Quality (value not over Hk. Tls. 3 per catty).	Catty-----	1. 800	0. 09
250	Ginseng, Crude, Beard, Roots, and Cuttings:			
	1st Quality (value over Hk. Tls. 3 per catty).	Catty-----	4. 400	0. 22
	2nd Quality (value not over Hk. Tls. 3 per catty).	Catty-----	1. 700	0. 085

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
FOOD, DRINK, AND MEDICINE—CON.				
Cereals, Fruits, etc.—Continued.				
251	Ginseng, Wild.....	Value 5 per cent.		
252	Groundnuts, in shell.....	Picul.....	3. 000	0. 15
253	Groundnuts, Shelled.....	Picul.....	4. 600	0. 23
254	Hops.....	Value 5 per cent.		
255	Isinglass, Vegetable.....	Picul.....	53. 000	2. 70
256	Lemons, Fresh.....	Thousand.....	29. 000	1. 50
257	Lichees, Dried.....	Picul.....	10. 600	0. 53
258	Lily Flowers, Dried.....	Picul.....	9. 400	0. 47
259	Lungngan Pulp.....	Picul.....	13. 000	0. 65
260	Lungngans, Dried.....	Picul.....	7. 600	0. 38
261	Malt.....	Picul.....	8. 102	0. 41
262	Morphia in all forms.....	Value 5 per cent.		
263	Mushrooms.....	Picul.....	47. 000	2. 40
264	Nutmegs.....	Picul.....	30. 000	1. 50
265	Olives.....	Value 5 per cent.		
266	Opium, Tincture of.....	Value 5 per cent.		
267	Oranges, Fresh.....	Picul.....	3. 600	0. 18
268	Peel, Orange in bulk.....	Picul.....	13. 000	0. 65
269	Pepper, Black.....	Picul.....	19. 400	0. 97
270	Pepper, White.....	Picul.....	32. 000	1. 60
271	Potatoes, Fresh.....	Value 5 per cent.		
272	Putchuck.....	Picul.....	38. 000	1. 90
273	Seed, Apricot.....	Picul.....	26. 800	1. 30
274	Seed, Lily Flower (i. e. Lotus- nuts without Husks). Seed, Lucraban.....	Picul.....	20. 000	1. 00
275	Seed, Melon.....	Picul.....	7. 000	0. 35
276	Seed, Pine (i. e., Fir-nuts).....	Picul.....	11. 000	0. 55
277	Seed, Sesamum.....	Picul.....	4. 800	0. 24
278	Seed, Sesamum.....	Picul.....	4. 800	0. 24
279	Vegetables, Dried, Prepared, and Salted.	Value 5 per cent.		
Sugar:—				
280	Sugar, Brown, under No. 11 Dutch Standard, and "Green Sugar".	Picul.....	4. 400	0. 22
281	Sugar, White, over No. 10 Dutch Standard (including Refined Sugar).	Picul.....	6. 200	0. 31
282	Sugar, White, Cube and Loaf...	Picul.....	10. 000	0. 50
283	Sugar Candy.....	Picul.....	7. 400	0. 37
284	Sugar Cane.....	Picul.....	1. 000	0. 05
Wines, Beer, Spirits, Table Waters, etc.:—				
285	Champagne and any other Wine sold under the label "Champagne".	Case of 12 bot- tles or 24 half- bottles	20. 000	1. 00
286	Sparkling Asti.....	"	10. 000	0. 50
287	Other Sparkling Wines.....	Case of 12 bot- tles or 24 half- bottles	12. 000	0. 60

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	FOOD, DRINK, AND MEDICINE—CON.			
288	Wines, Beer, Spirits, etc.—Con. Still Wines, Red or White, Ex- clusively the produce of the natural fermentation of grapes (not including Vins de Liqueur):—			
	(1) In Bottles.....	Case of 12 bot- tles or 24 half- bottles	6. 000	0. 30
	(2) In bulk.....	Imperial gallon..	0. 700	0. 035
289	Port Wine, in Bottles.....	Case of 12 bot- tles or 24 half- bottles	14. 000	0. 70
290	Port Wine, in bulk.....	Imperial gallon..	3. 500	0. 18
291	Marsala, in Bottles.....	Case of 12 bot- tles or 24 half bottles	8. 000	0. 40
292	Marsala, in bulk.....	Imperial gallon..	2. 000	0. 10
293	Vins de Liqueur other than Port and Marsala (viz., Madeira, Malaga, Sherry, etc.):—			
	(1) In Bottles.....	Case of 12 bot- tles or 24 half bottles	10. 000	0. 50
	(2) In bulk.....	Imperial gallon..	3. 000	0. 15
294	Vermouth, Byrrh, and Quin- quina.	Case of 12 litres..	5. 800	0. 29
295	Saké, in Barrels.....	Picul.....	8. 200	0. 41
296	Saké, in Bottles.....	12 reputed quarts or 24 reputed pints	2. 000	0. 10
297	Ale, Beer, Cider, Perry, and similar Liquors made of Fruits and Berries:—			
	(1) In Bottles.....	12 reputed quarts or 24 reputed pints	1. 580	0. 079
	(2) in Casks.....	Imperial gallon..	0. 540	0. 027
298	Porter and Stout, in Bottles....	12 reputed quarts or 24 reputed pints	2. 560	0. 13
299	Porter and Stout, in Casks.....	Imperial gallon..	0. 550	0. 028
300	Brandy, Cognac, and Whisky, in bulk.	Imperial gallon..	2. 600	0. 13
301	Brandy and Cognac, in Bottles..	Case of 12 re- puted quarts	13. 400	0. 67
302	Whisky, in Bottles.....	Case of 12 re- puted quarts	7. 000	0. 35

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
FOOD, DRINK, AND MEDICINE—CON.				
303	Wines, Beer, Spirits, etc.—Con. Gin, in Bottles.....	Case of 12 re- puted quarts	4. 600	0. 23
304	Gin, in bulk.....	Imperial gallon...	1. 800	0. 09
305	Other Spirits (i. e., Rum, Aqua- vit, Vodka, Punch, etc.):— (1) in Bottles.....	Case of 12 re- puted quarts	4. 000	0. 20
306	(2) In bulk..... Liqueurs.....	Imperial gallon...	1. 800	0. 09
		12 reputed quarts or 24 reputed pints	10. 000	0. 50
307	Waters, Table, Aerated and Mineral.	12 bottles or 24 half-bottles	1. 400	0. 07
308	Spirits of Wine and Rectified Spirits or Alcohol.	Imperial gallon...	0. 560	0. 028
TOBACCO				
309	Cigarettes, value over Hk. Tls. 4.50 per 1,000 and all Ciga- rettes not bearing a distinctive brand or name on each Ciga- rette.	Thousand.....	6. 600	0. 33
310	Cigarettes, value over Hk. Tls. 3.00 but not over Hk. Tls. 4.50 per 1,000.	Thousand.....	3. 800	0. 19
311	Cigarettes, value over Hk. Tls. 1.50 but not over Hk. Tls. 3.00 per 1,000.	Thousand.....	2. 200	0. 11
312	Cigarettes, value Hk. Tls. 1.50 or less per 1,000.	Thousand.....	1. 200	0. 06
313	Cigars.....	Thousand.....	16. 000	0. 80
314	Snuff.....	Value 5 per cent		
315	Tobacco, Leaf.....	Picul.....	22. 000	1. 10
316	Tobacco, Prepared, in tins or packages, under 5 lb. each.	Value 5 per cent.		
317	Tobacco, Prepared, in bulk (not packed in tins or tin-lined cases).	Picul.....	22. 000	1. 10
318	Tobacco stalk.....	Picul.....	5. 600	0. 28
CHEMICALS AND DYES				
Chemicals:—				
319	Acid, Acetic.....	Picul.....	30. 639	1. 50
320	Acid, Boracic.....	Picul.....	21. 448	1. 10
321	Acid, Carbolie.....	Value 5 per cent.		
322	Acid, Hydrochloric (i. e. Muria- tic).	Value 5 per cent.		

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	CHEMICALS AND DYES—continued			
	Chemicals—Continued.			
323	Acid, Nitric.....	Picul.....	14. 282	0. 71
324	Acid, Sulphuric.....	Picul.....	3. 317	0. 17
325	Ammonia, in bulk.....	Picul.....	26. 513	1. 30
326	Ammonia, Chloride of (i. e. Sal Ammoniac).	Picul.....	17. 823	0. 89
327	Ammonia, Sulphate of.....	Picul.....	7. 438	0. 37
328	Bleaching Powder (i. e. Chloride of Lime).	Picul.....	5. 469	0. 27
329	Borax, Crude or Refined.....	Picul.....	11. 521	0. 58
330	Calcium, Carbide of.....	Picul.....	7. 451	0. 37
331	Copper, Sulphate of.....	Picul.....	11. 913	0. 60
332	Glycerine.....	Picul.....	43. 930	2. 20
333	Hide Specific.....	Value 5 per cent.		
334	Manure, Animal, Chemical, or Artificial, not otherwise enumerated.	Picul.....	2. 951	0. 15
335	Naphthalene.....	Picul.....	12. 653	0. 63
336	Saltpetre.....	Picul.....	9. 324	0. 47
337	Soda Ash.....	Picul.....	2. 499	0. 12
338	Soda, Bicarbonate of, in bulk.....	Picul.....	2. 899	0. 14
339	Soda, Caustic.....	Picul.....	6. 200	0. 31
340	Soda, Crystal.....	Picul.....	2. 659	0. 13
341	Soda, Crystal, Concentrated.....	Picul.....	3. 178	0. 16
342	Soda, Nitrate of (Chile Salt-petre).	Picul.....	5. 342	0. 27
343	Soda, Silicate of.....	Picul.....	3. 603	0. 18
	Dyes and Pigments:—			
344	Aniline Dyes not otherwise enumerated.	Value 5 per cent.		
345	Bark, Mangrove.....	Picul.....	1. 682	0. 084
346	Bark, Plum-tree.....	Picul.....	3. 187	0. 16
347	Bark, Yellow (for Dyeing).....	Picul.....	4. 948	0. 25
348	Blue, Paris or Prussian.....	Picul.....	34. 945	1. 70
349	Bronze Powder.....	Picul.....	52. 979	2. 60
350	Carbon black (i. e. Lampblack).....	Picul.....	20. 000	1. 00
351	Carthamin.....	Value 5 per cent.		
352	Chrome Yellow.....	Value 5 per cent.		
353	Cinnabar.....	Picul.....	82. 400	4. 10
354	Cobalt, Oxide of.....	Value 5 per cent.		
355	Cochineal.....	Value 5 per cent.		
356	Cunao or False Gambier.....	Picul.....	3. 340	0. 17
357	Cutch or Gambier.....	Picul.....	10. 000	0. 50
358	Dyes and Colours, Unclassed.....	Value 5 per cent.		
359	Gamboge.....	Picul.....	56. 951	2. 80
360	Green, Emerald Schweinfurt, or Imitation.	Picul.....	22. 458	1. 10
361	Hartall (Orpiment).....	Picul.....	9. 562	0. 48

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
CHEMICALS AND DYES—continued				
Dyes and Pigments—Continued.				
362	Indigo, Dried, Artificial.....	Picul.....	125. 881	6. 30
363	Indigo, Dried, Natural.....	Picul.....	60. 000	3. 00
364	Indigo, Liquid or Paste, Artificial.	Picul.....	40. 000	2. 00
365	Indigo, Liquid, Natural.....	Picul.....	6. 000	0. 30
366	Indoin.....	Value 5 per cent.....		
367	Laka-wood.....	Picul.....	3. 272	0. 16
368	Lead, Red, White, and Yellow.....	Picul.....	10. 294	0. 51
369	Logwood Extract.....	Picul.....	15. 492	0. 77
370	Nutgalls.....	Picul.....	20. 863	1. 00
371	Ochre.....	Picul.....	6. 545	0. 33
372	Safflower.....	Picul.....	12. 908	0. 65
373	Sapanwood.....	Picul.....	2. 744	0. 14
374	Smalt.....	Picul.....	40. 150	2. 00
375	Turmeric.....	Picul.....	3. 938	0. 20
376	Ultramarine.....	Picul.....	13. 862	0. 69
377	Vermilion.....	Picul.....	82. 400	4. 10
378	Vermilion, Artificial.....	Value 5 per cent.....		
379	White Zinc.....	Value 5 per cent.....		
CANDLES, GUMS, OILS, SOAP, VARNISHES, WAX, AND MANUFACTURES OF				
380	Candles.....	Picul.....	12. 600	0. 63
381	Candlewick.....	Picul.....	75. 200	3. 80
382	Gasolene, Naphtha, and Benzine, Mineral:			
	(a) In bulk.....	10 Am. galls.....	3. 000	0. 15
	(b) In case.....	Case of 2 tins, each of 5 Am. galls.	3. 500	0. 18
383	Grease, Lubricating, wholly or partly mineral.	Picul.....	7. 000	0. 35
384	Gum Arabic.....	Picul.....	24. 000	1. 20
385	Gum Benjamin.....	Picul.....	12. 000	0. 60
386	Gum Copal.....	Picul.....	24. 000	1. 20
387	Gum Dragon's-blood.....	Picul.....	60. 000	3. 00
388	Gum Myrrh.....	Picul.....	9. 600	0. 48
389	Gum Olibanum.....	Picul.....	9. 600	0. 48
390	Gum Resin.....	Picul.....	6. 800	0. 34
391	Gum Shellac.....	Picul.....	40. 000	2. 00
392	Gum Sticklac.....	Picul.....	15. 000	0. 75
393	Gum Tragacanth.....	Picul.....	18. 000	0. 90
394	Oil, Castor, Lubricating.....	Picul.....	12. 000	0. 60
395	Oil, Castor, Medicinal.....	Value 5 per cent.....		
396	Oil, Coconut.....	Picul.....	16. 000	0. 80

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	CANDLES, GUMS, OILS, SOAP, VARNISHES, WAX, AND MANUFACTURES OF—continued.			
397	Oil, Kerosene:			
	(a) In case.....	Case of 2 tins, each of 5 Am. gallons.	2. 200	0. 11
	(b) In bulk.....	10 Am. galls....	1. 600	0. 08
	(c) Tins, empty.....	Tin.....	0. 200	0. 01
	(d) Case and two empty tins....	Each.....	0. 540	0. 027
398	Oil, Linseed.....	Imperial gallon...	1. 200	0. 06
399	Oil, Lubricating:			
	(a) Wholly or partly of Mineral origin.	Am. gall.....	0. 300	0. 015
	(b) Other kinds, not otherwise enumerated.	Am. gall.....	0. 500	0. 025
400	Oil, Olive, in bulk.....	Imperial gallon...	2. 000	0. 10
401	Soap, Household and Laundry (including Blue Mottled), in bulk, Bars, and Doublets: duty to be charged on nomi- nal weights, provided that such weights be not less than true weights and that a bar does not weigh less than 7 oz.	Picul.....	8. 800	0. 44
402	Soap, Toilet and Fancy.....	Value 5 per cent.-----		
403	Stearine.....	Picul.....	19. 600	0. 98
404	Turpentine:—			
	(a) Mineral.....	Imperial gallon...	0. 600	0. 03
	(b) Vegetable.....	Imperial gallon...	0. 800	0. 04
405	Wax, Bees, Yellow.....	Picul.....	32. 000	1. 60
406	Wax, Paraffin.....	Picul.....	10. 000	0. 50
407	Wax, Vegetable.....	Picul.....	15. 200	0. 76
	PAPER, WOOD PULP, BOOKS, AND MAPS			
408	Paper, Cigarette, on bobbins.....	Picul (Incl. weight of bob- bin).	40. 00	2. 00
409	Paper, Common Printing, Calen- dered and Uncalendered, Sized and Unsized, White and Coloured.	Picul.....	6. 40	0. 32
410	Paper, Marbled, Enamelled, and Glazed Flint.	Picul.....	12. 20	0. 61
411	Paper, M. G. Cap, White and Coloured.	Picul.....	6. 40	0. 32
412	Paper, Packing and Wrapping, Brown or Coloured.	Picul.....	6. 40	0. 32

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	PAPER, WOOD PULP, BOOKS, AND MAPS—continued			
413	Paper, Printing, Calendered and Uncalendered, Sized and Un- sized, White and Coloured, (including Simile and M. G. Poster, but not including Printing paper otherwise enu- merated), free of mechanical wood pulp.	Picul.....	9. 20	0. 46
414	Paper, Strawboard.....	Value 5 per cent.	-----	-----
415	Paper, Unenumerated.....	Value 5 per cent.	-----	-----
416	Paper, Unglazed Tissue and M. G. Bleached Sulphite, free of mechanical wood pulp.	Picul.....	10. 00	0. 50
417	Paper, Writing, Drawing, Art Printing, Bank-note, Parch- ment, Pergamyn, and Grease- proof.	Value 5 per cent.	-----	-----
418	Wood Pulp, Chemical.....	Picul.....	6. 00	0. 30
419	Wood Pulp, Mechanical:— (a) Dry.....	Picul.....	3. 32	0. 17
	(b) Wet (not containing less than 40 per cent moisture).	Picul.....	1. 66	0. 083
420	Books.....	-----	Free.	-----
421	Charts and Maps.....	-----	Free.	-----
422	Newspapers and Periodicals.....	-----	Free.	-----
	ANIMAL SUBSTANCES, RAW AND PREPARED			
	Hides, Leather, and Skins (Furs):			
423	Hides, Buffalo and Cow.....	Picul.....	22. 00	1. 10
424	Leather Belting.....	Value 5 per cent.	-----	-----
425	Leather, Calf, Kid, Enamelled, Japanned, Patent, and/or Coloured.	Picul.....	300. 00	15. 00
426	Leather, Cow (including that for Soles and Harness).	Picul.....	58. 00	2. 90
427	Leather, Cow, Enamelled, Ja- panned, and Patent.	Picul.....	180. 00	9. 00
428	Skins (Furs), Beaver.....	Value 5 per cent.	-----	-----
429	Skins (Furs), Dog.....	Value 5 per cent.	-----	-----
430	Skins (Furs), Fox.....	Value 5 per cent.	-----	-----
431	Skins (Furs), Fox, Arctic, White.	Value 5 per cent.	-----	-----
432	Skins (furs), Fox Legs.....	Value 5 per cent.	-----	-----
433	Skins (Furs), Fox, Red.....	Value 5 per cent.	-----	-----
434	Skins (Furs), Goat, Tanned....	Value 5 per cent.	-----	-----
435	Skins (Furs), Goat, Untanned..	Value 5 per cent.	-----	-----
436	Skins (Furs), Hare and Rabbit..	Value 5 per cent.	-----	-----

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	ANIMAL SUBSTANCES, RAW AND PREPARED—continued			
	Hides, Leather, etc.—Continued.			
437	Skins (Furs), Lamb.....	Value 5 per cent.	-----	-----
438	Skins (Furs), Lamb, Unborn....	Value 5 per cent.	-----	-----
439	Skins (Furs), Land-otter.....	Value 5 per cent.	-----	-----
440	Skins (Furs), Lynx.....	Value 5 per cent.	-----	-----
441	Skins (Furs), Marten, Untanned.	Value 5 per cent.	-----	-----
442	Skins (Furs), Musquash.....	Value 5 per cent.	-----	-----
443	Skins (Furs), Raccoon.....	Value 5 per cent.	-----	-----
444	Skins (Furs), Sable.....	Value 5 per cent.	-----	-----
445	Skins (Furs), Sheep, Untanned.	Value 5 per cent.	-----	-----
446	Skins (Furs), Squirrel.....	Value 5 per cent.	-----	-----
447	Skins (Furs), Wolf.....	Value 5 per cent.	-----	-----
	Bones, Feathers, Hair, Horns, Shells, Sinews, Tusks, etc.:—			
448	Bones, Tiger.....	Picul.....	56. 00	2. 80
449	Cow Bezoar, Indian.....	Value 5 per cent.	-----	-----
450	Crocodile and Armadillo Scales.	Picul.....	59. 00	3. 00
451	Elephants' Tusks, Whole or Parts of.	Catty.....	3. 60	0. 18
452	Feathers, Kingfisher, Whole Skins.	Hundred.....	12. 00	0. 60
453	Feathers, Kingfisher, Part Skins (i. e., Wings, Tails, or Backs).	Hundred.....	8. 00	0. 40
454	Feathers, Peacock.....	Value 5 per cent.	-----	-----
455	Hair, Horse.....	Picul.....	42. 00	2. 10
456	Hair, Horse Tails.....	Picul.....	50. 00	2. 50
457	Horns, Buffalo and Cow.....	Picul.....	13. 00	0. 65
458	Horns, Deer.....	Picul.....	34. 00	1. 70
459	Horns, Deer, Old.....	Picul.....	140. 00	7. 00
460	Horns, Deer, Young (northern).	Pair.....	50. 00	2. 50
461	Horns, Deer, Young (Southern).	Value 5 per cent.	-----	-----
462	Horns, Rhinoceros.....	Catty.....	80. 00	4. 00
463	Musk.....	Catty.....	180. 00	9. 00
464	Sea-horse Teeth.....	Value 5 per cent.	-----	-----
465	Sinews, Cow and Deer.....	Picul.....	20. 00	1. 00
	TIMBER, WOOD, BAMBOOS, AND RATTANS			
	Timber:—			
466	Laths.....	1000 pieces.....	4. 20	0. 21
	Ordinary (not including Teak and other enumerated Woods), Rough Hewn:			
467	Hardwood.....	1000 sup. ft., B. M.	29. 00	1. 45
468	Softwood.....	1000 sup. ft., B. M.	23. 00	1. 15

ANNEX I—Continued

IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	TIMBER, WOOD, BAMBOOS, AND RATTANS—continued			
	Timber—Continued.			
	Ordinary, Sawm:			
469	Hardwood.....	1000 sup. ft., B. M.	36. 00	1. 80
470	Softwood.....	1000 sup. ft., B. M.	30. 00	1. 50
	Ordinary, Manufactured (in- cluding any process further than simple sawing), exclu- sive of Masts and Spars:			
	Hardwood:			
471	(a) Clear, on net measure..	1000 sup. ft., B. M.	60. 00	3. 00
	(b) Merchantable, on net measure.	1000 sup. ft., B. M.	42. 00	2. 10
472	Softwood:			
	(a) Clear, on net measure..	1000 sup. ft., B. M.	50. 00	2. 50
	(b) Merchantable, on net measure.	1000 sup. ft., B. M.	36. 00	1. 80
473	Ordinary, Masts and Spars...	Value 5 per cent.		
474	Railway Sleepers.....	Value 5 per cent.		
475	Teak-wood, Beams and Planks.	1000 sup. ft., B. M.	135. 00	6. 75
	Wood, Bamboos, Rattans, etc.:—			
476	Canes, Bamboo.....	Thousand.....	8. 40	0. 42
477	Rattan Skin.....	Picul.....	15. 00	0. 75
478	Rattans, Core or Whole.....	Picul.....	6. 41	0. 32
479	Rattans, split.....	Picul.....	6. 70	0. 34
480	Wood, Camagon.....	Picul.....	3. 20	0. 16
481	Wood, Camphor.....	Value 5 per cent.		
482	Wood, Ebony.....	Value 5 per cent.		
483	Wood, Fragrant.....	Value 5 per cent.		
484	Wood, Garoo.....	Catty.....	2. 40	0. 12
485	Wood, Kranjee.....	Value 5 per cent.		
	Wood, Laka. See Dyes.			
486	Wood, Lignum, vitae.....	Value 5 per cent.		
487	Wood, Oil.....	Value 5 per cent.		
488	Wood, Puru.....	Picul.....	1. 80	0. 09
489	Wood, Red and Rose.....	Picul.....	4. 10	0. 21
490	Wood, Sandal.....	Picul.....	8. 60	0. 43
491	Wood, Sandal Dust.....	Value 5 per cent.		
	Wood, Sapan. See Dyes.			
492	Wood, Scale Sticks.....	Piece.....	0. 18	0. 009
493	Wood, Scented.....	Value 5 per cent.		
494	Wood, Shavings, Hinoki.....	Value 5 per cent.		

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	TIMBER, WOOD, BAMBOOS, AND RATTANS—continued			
495	Wood, Veneer..... In this tariff, by Softwood is meant the wood of any coniferous tree and of all trees with "needle" or spinous leaves, e.g., Pines, Firs, Spruces, Larches, Cedars, Yews, Junipers, and Cypresses. The wood of all trees with broad leaves is to be classed as Hardwood.	Value 5 per cent.		
	COAL, FUEL, PITCH, AND TAR			
496	Coal.....	Ton.....	5. 400	0. 27
497	Coal Briquettes.....	Ton.....	10. 000	0. 50
498	Charcoal.....	Picul.....	1. 093	0. 05
499	Coke.....	Ton.....	10. 902	0. 55
500	Liquid Fuel.....	Ton.....	14. 572	0. 73
501	Pitch.....	Picul.....	4. 709	0. 24
502	Tar, Coal.....	Picul.....	1. 600	0. 08
	CHINAWARE, ENAMELLEDWARE, GLASS, ETC.			
503	Basins, Tin.....	Gross.....	6. 000	0. 30
504	Chinaware.....	Value 5 per cent.		
505	Enamelled Ironware:— Mugs, Cups, Basins, and Bowls, not over 11 centimetres in diameter.	Dozen.....	1. 000	0. 05
506	Basins and Bowls, over 22 cen- timetres, but not over 35 cen- timetres in diameter.	Dozen.....	2. 000	0. 10
507	Enamelled Ironware, Unenu- merated.	Value 5 per cent.		
508	Glass and Crystal Ware.....	Value 5 per cent.		
509	Glass, Plate, Silvered, Bevelled or Unbevelled, not over 5 square feet each.	Square foot.....	0. 560	0. 028
510	Glass, Plate, Silvered, Bevelled or Unbevelled, over 5 square feet each.	Square foot.....	0. 840	0. 042
511	Glass, Plate, Unsilvered.....	Value 5 per cent.		
512	Glass, Window, Common, not over 32 oz. in weight per square foot.	100 sq. ft.....	5. 000	0. 25
513	Glass, Window, Coloured.....	100 sq. ft.....	12. 000	0. 60

ANNEX I—Continued

IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	EARTH, PRECIOUS STONES, STONES, AND ARTICLES MADE OF			
514	Amber.....	Value 5 per cent.		
515	Cement.....	Picul.....	0. 900	0. 045
516	Coral Beads.....	Catty.....	16. 000	0. 80
517	Cornelian Beads.....	Value 5 per cent.		
518	Cornelian Stones, Rough.....	Hundred.....	6. 000	0. 30
519	Corundum Sand.....	Picul.....	3. 800	0. 19
520	Fire-bricks.....	Value 5 per cent.		
521	Fireclay.....	Picul.....	1. 220	0. 061
522	Flints (including Flint Pebbles).....	Picul.....	0. 800	0. 04
523	Tiles.....	Value 5 per cent.		
	MISCELLANEOUS			
	Asbestos:—			
524	Asbestos Boiler Composition.....	Picul.....	3. 600	0. 18
525	Asbestos Fibre and Metallic Packing.....	Picul.....	64. 000	3. 20
526	Asbestos Millboard.....	Picul.....	8. 000	0. 40
527	Asbestos Sheets and Packing.....	Picul.....	44. 000	2. 20
528	Asbestos Yarn.....	Picul.....	40. 000	2. 00
	Bags, Mats, and Matting:—			
529	Bags, Cotton.....	Picul.....	40. 000	2. 00
530	Bags, Straw and Grass.....	Thousand.....	30. 000	1. 50
531	Mats, Coir, (Door).....	Dozen.....	8. 000	0. 40
532	Mats, Fancy.....	Value 5 per cent.		
533	Mats, Formosa Grass (Bed).....	Each.....	4. 700	0. 24
534	Mats, Rattan.....	Value 5 per cent.		
535	Mats, Rush.....	Hundred.....	71. 000	3. 60
536	Mats, Straw.....	Hundred.....	5. 100	0. 26
537	Mats, Tatami.....	Each.....	0. 320	0. 016
538	Matting, Coir, 36 ins. by 100 yds.....	Roll of 100 yds..	37. 100	1. 90
539	Matting, Straw, 36 ins. by 40 yds.....	Roll of 40 yds..	5. 000	0. 25
	Buttons:—			
540	Buttons, Fancy (Glass Jewel- ery, etc.).....	Value 5 per cent.		
541	Buttons, Metal (not including those made of Precious Met- als or plated with Precious Metals.).....	Gross.....	0. 400	0. 02
542	Buttons, Porcelain.....	12 gross.....	0. 340	0. 017
543	Buttons, Shell.....	Gross.....	0. 420	0. 021
	Fans, Umbrellas, and Sun- shades:—			
544	Fans, Palm-leaf, Coarse.....	Thousand.....	7. 000	0. 35
545	Fans, Palm-leaf, Fancy.....	Thousand.....	20. 000	1. 00
546	Fans, Palm-leaf, Fine.....	Thousand.....	12. 000	0. 60

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	MISCELLANEOUS—continued			
	Fans, Umbrellas, and Sunshades— Continued.			
547	Fans, Paper or Cotton-----	Thousand-----	47. 000	2. 40
548	Fans, Silk-----	Value 5 per cent.-----	-----	-----
	Umbrellas and Sunshades:—			
549	With handles wholly or partly of precious Metals, Ivory, Mother-of-Pearl, Tortoise- shell, Agate, etc., or Jewelled.	Value 5 per cent.-----	-----	-----
550	With all other Handles, all Cot- ton:			
	(a) Length of rib not over 17 ins.	Value 5 per cent.-----	-----	-----
	(b) Length of rib over 17 ins.			
551	With all other Handles, Mix- tures, not Silk.	Each-----	0. 440	0. 022
		Each-----	0. 730	0. 037
552	With all other Handles, Silk and Silk Mixtures.	Each-----	1. 300	0. 065
	Files and Needles:—			
	Files of all kinds:			
553	Filing Surface only, not over 4 ins. long.	Dozen-----	1. 300	0. 065
554	Filing Surface only, over 4 ins. but not over 9 ins. long.	Dozen-----	2. 700	0. 14
555	Filing Surface only, over 9 ins. but not over 14 ins. long.	Dozen-----	5. 000	0. 25
556	Filing Surface only, over 14 ins. long.	Dozen-----	12. 000	0. 60
557	Needles, Nos. 7/o and 6/o----	100 mille-----	54. 000	2. 70
558	Needles, Nos. 3/o and 2/o----	100 mille-----	50. 000	2. 50
559	Needles, Assorted (not in- cluding 7/o).	100 mille-----	40. 000	2. 00
	Matches and Match-making Ma- terials:—			
	Matches, Wood, Safety or other:			
560	Small, in boxes not over 2 ins. by 1½ by ¾ in.	100 gross box---	18. 400	0. 92
561	Large, in boxes not over 2½ ins. by 1½ ins. by ¾ in.	50 gross box---	16. 000	0. 80
562	In boxes over above sizes----	Value 5 per cent.-----	-----	-----
563	Chlorate of Potash-----	Picul-----	36. 000	1. 80
564	Emery and Glass Powder-----	Picul-----	2. 400	0. 12
565	Labels-----	Value 5 per cent.-----	-----	-----
566	Phosphorus-----	Picul-----	70. 000	0. 35

ANNEX I—Continued
IMPORT TARIFF—Continued

No.	Name of Article	Agreed Value		Proposed Duty Rate
		Per	Hk. Tls.	Hk. Tls.
	MISCELLANEOUS—continued			
	Matches and Match-making Materials—Continued.			
	Matches, Wood, Safety or other—Continued.			
567	Wood shavings.....	Picul.....	2 200	0 11
568	Wood Splints.....	Picul.....	2 000	0 10
	Metal Threads and Foil:—			
569	Thread, Gold, Imitation, on Cotton.	Catty.....	3 000	0 15
570	Thread, Silver, Imitation, on Cotton.	Catty.....	1 800	0 09
571	Thread, Gold and Silver, Imitation, on Silk.	Value 5 per cent.		
572	Tinfoil.....	Picul.....	63 000	3 20
	Sundry:—			
573	Bamboo Baskets, Bamboo Blinds, and other Bamboo Ware.	Value 5 per cent.		
574	Bent-wood Chairs.....	Value 5 per cent.		
575	Coir Yarn.....	Value 5 per cent.		
576	Cordage and Twine.....	Value 5 per cent.		
577	Emery-cloth and Sand-paper (sheet not over 144 square inches).	Ream.....	5 000	0 25
578	Furniture and other Wood ware.	Value 5 per cent.		
579	Glue (not including Fish Glue).	Picul.....	20 000	1 00
580	Glue, Cow, Refuse.....	Picul.....	20 000	1 00
581	Glue, Fish.....	Picul.....	75 857	3 80
582	India-rubber and Gutta-percha, Crude.	Value 5 per cent.		
583	India-rubber, Old or Waste.....	Value 5 per cent.		
584	Inks of all kinds.....	Value 5 per cent.		
585	Insect Powder.....	Value 5 per cent.		
586	Lampwick.....	Picul.....	54 600	2 70
587	Leather Purses.....	Gross.....	11 200	0 56
588	Machines, Sewing and Knitting.	Value 5 per cent.		
589	Mirrors.....	Value 5 per cent.		
590	Moulding, Picture.....	Value 5 per cent.		
591	Oakum.....	Picul.....	12 600	0 63
592	Rope.....	Value 5 per cent.		
593	Shoes and Boots.....	Value 5 per cent.		
594	Starch.....	Value 5 per cent.		
595	Sulphur.....	Value 5 per cent.		
596	Tinder.....	Picul.....	9 000	0 45
597	Worm Tablets, in Bottles, not over 60 pieces.	Dozen.....	0 740	0 037
598	Unenumerated Goods.....	Value 5 per cent.		

ANNEX II

RULES

RULE I

Imports unenumerated in this Tariff will pay Duty at the rate of 5 per cent *ad valorem*; and the value upon which Duty is to be calculated shall be the wholesale market value of the goods in local currency. This market value when converted into Haikwan Taels shall be considered to be 12 per cent higher than the amount upon which Duty is to be calculated.

If the goods have been sold before presentation to the Customs of the Application to pay Duty, the gross amount of the *bona fide* contract will be accepted as evidence of the market value. Should the goods have been sold on c. f. and i. terms, that is to say, without inclusion in the price of Duty and other charges, such c. f. and i. price shall be taken as the value for Duty-paying purposes without the deduction mentioned in the preceding paragraph.

If the goods have not been sold before presentation to the Customs of the Application to pay Duty, and should a dispute arise between Customs and importer regarding the value or classification of goods, the case will be referred to a Board of Arbitration composed as follows:—

- An official of the Customs;
- A merchant selected by the Consul of the importer; and
- A merchant, differing in nationality from the importer, selected by the Senior Consul.

Questions regarding procedure, etc., which may arise during the sittings of the Board shall be decided by the majority. The final finding of the majority of the Board, which must be announced within fifteen days of the reference (not including holidays), will be binding upon both parties. Each of the two merchants on the Board will be entitled to a fee of ten Haikwan Taels. Should the Board sustain the Customs valuation, or, in the event of not sustaining that valuation, should it decide that the goods have been undervalued by the importer to the extent of not less than 7½ per cent., the importer will pay the fees, if otherwise, the fees will be paid by the Customs. Should the Board decide that the correct value of the goods is 20 per cent. (or more) higher than that upon which the importer originally claimed to pay Duty, the Customs authorities may retain possession of the goods until full Duty has been paid and may levy an additional Duty equal to four times the Duty sought to be evaded.

In all cases invoices, when available, must be produced if required by the Customs.

RULE II

The following will not be liable to Import Duty: Foreign Rice, Cereals, and Flour; Gold and Silver, both Bullion and Coin; Printed Books, Charts, Maps, Periodicals, and Newspapers.

A freight or part freight of Duty-free commodities (Gold and Silver Bullion and Foreign Coins excepted) will render the vessel carrying them, though no other cargo be on board, liable to Tonnage Dues.

Drawbacks will be issued for Ships' Stores and Bunker Coal when taken on board.

RULE III

Except at the requisition of the Chinese Government, or for sale to Chinese duly authorized to purchase them, Import trade is prohibited in all Arms, Ammunition, and Munitions of War of every description. No Permit to land them will be issued until the Customs have proof that the necessary authority has been given to the importer. Infraction of this rule will be punishable by confiscation of all the goods concerned. The import of Salt is absolutely prohibited.

RULE IV

The importation of opium and poppy seeds is absolutely prohibited. The importation of the following articles is prohibited except under bond by qualified medical practitioners, druggists and chemists: Morphia and cocaine and hypodermic syringes; anti-opium pills containing morphia, opium or cocaine, novocaine, stovaine, heroin, thebaine, ghanja, hashish, bhong, *Cannabis indica*, tincture of opium, laudanum, codeine, dionin, and all other derivatives of opium and cocaine.

REFUSAL BY THE DIPLOMATIC CORPS TO RECOGNIZE THE CLAIMS OF THE CANTON GOVERNMENT UPON THE ACCUMULATED CUSTOMS SURPLUS

893.51/1996 : Telegram

The Chargé in China (MacMurray) to the Secretary of State

PEKING, September 5, 1918—7 p.m.

[Received September 6—10:55 a.m.]

Acting upon information from various sources including the Inspector General of Maritime Customs in the absence of instructions I am addressing to Canton the following instructions.

“Urgent. The Legation has received an intimation that it is the intention of those now in control in Canton to seize the customs house at that port. Under agreement with Chinese Government the

Government of the United States has certain legal claims upon revenues of the Maritime Customs (without regard to locality) as security for obligations of the Chinese Government; and it could not therefore regard with equanimity a sequestering of any portion of those revenues by any group other than the recognized party to such obligations.

It is desired that you bring this view to the attention of those constituting the beginning [*sic*] of 'Canton Government' with a discreet intimation that any such action as reported to be contemplated by them would tend to alienate whatever sympathy that might be felt for the political purposes which they profess.

The Legation has no information to substantiate the rumors that our Government has under consideration the recognition of the independence or of the belligerency of the southern provinces."

There are current here rather detailed reports in regard to inquiries made by the Japanese Ambassador as to the unwritten Protectorate [*sic*] regarding recognition of the independence or belligerency of Kwangtung and other southern provinces of China, which included the statement that the Secretary of State had indicated his opinion that the request for recognition is not seriously considered by the American Government. I venture to suggest that it would be helpful to the Legation to receive definite information on this subject and on other matters involving decisions in regard to our Government's policy towards Chinese questions.

MACMURRAY

893.51/3234

The Minister in China (Crane) to the Acting Secretary of State

No. 594

PEKING, December 7, 1920.

[Received February 3, 1921.]

SIR: I have the honor to transmit herewith, as of interest to the Department, copies of Circular No. 239 of the Dean of the Diplomatic Corps, regarding translation of a note, which the Dean has received from the Wai Chiao Pu, proposing that the usual deduction of 13.7% from surplus Customs Revenue for the eventual use of the South-Western Provinces should no longer be made.

I have [etc.]

CHARLES R. CRANE

[Enclosure]

The Dean of the Diplomatic Corps (Pastor) to the American Minister (Crane)

Circular No. 239

PEKING, December 3, 1920.

The Dean has the honour to circulate herewith to his Honourable Colleagues translation of a Note dated the 2nd instant, which he has received from the Wai Chiao Pu, proposing that the usual

deduction of 13.7% from surplus Customs Revenue for the (eventual) use of the South-Western Provinces should no longer be made.

Don Luis Pastor⁸⁵ is of the opinion that, until unification of North and South is nearer realisation, it would be premature to consent to this proposal.

[Translation⁸⁶]

In agreement with His Excellency the Dean

MAUGRAS⁸⁷

I also agree

RODRIGUES ALVES⁸⁸

It seems to follow from the letter of the Wai Chiao Pu that the Ministry of Finance has the intention of giving, or has already given, to the Inspector General of Customs the instructions in question without the previous assent of the diplomatic corps. I am of the opinion that occasion should be taken in the reply which will be given to this letter to call the attention of the Wai Chiao Pu to this fact and to reiterate the principle that the Inspector General may not receive instructions on the subject of the use of the Customs Revenue before an agreement to that effect has been reached between the Chinese Government and the diplomatic corps.

December 4, 1920.

ROBERT EVERTS⁸⁹

[Subenclosure—Translation]

The Chinese Minister of Foreign Affairs (W. W. Yen) to the Dean of the Diplomatic Corps (Pastor)

[PEKING,] December 2, 1920.

MONSIEUR LE DOYEN: The Chinese Government frequently makes an appropriation of the surplus funds of the Maritime Customs and from each appropriation 13.7% has been deducted by the Inspector General for the use of the Military Government of the South-West. Now the Military Government of the South-West has already been dissolved, as announced by Presidential Mandate promulgated on the 30th day of the 10th month. Consequently whenever the Chinese Government makes further appropriations of surplus Customs Revenue the whole amount should be handed over to the Ministry of Finance and the practice of deducting 13.7% should be cancelled forever. The Ministry of Finance is instructing the Inspector Gen-

⁸⁵ The Spanish Minister and dean of the diplomatic corps in China.

⁸⁶ Supplied by the editor.

⁸⁷ Gaston Maugras, the French Chargé in China.

⁸⁸ J. de P. Rodrigues Alves, the Brazilian Minister in China.

⁸⁹ Belgian Minister in China.

eral to act accordingly and it is my duty to address this Note for the information of Your Excellency and to request you to bring the same to the notice of the Ministers of the Powers interested.

[No signature indicated.]

893.51/3162 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, December 27, 1920—5 p. m.

[Received December 28—5:32 a.m.]

464. British Minister has suggested to the diplomatic corps, and I have concurred, that before further divided releases of customs are sanctioned by the diplomatic corps discussion be had of the Foreign Office proposals [to] discontinue such divided allocations in the future. I request instructions of the Department as to its views. The present custom [*Canton?*] leaders are generally discredited, are without constructive plans, and exercise much smaller effective control than the South did when the policy of withholding 13 percent as Southern portion was initiated. While the Peking Government is admittedly unrepresentative of the whole [of China] it is nevertheless accorded recognition of the powers and is held by them responsible for the national obligations of the whole of China; it seems therefore just to permit entire amount of surplus to go to it. To do so might also improve chances of payment of foreign claims of which many American ones are pending. If corps [consents] it is of course possible that Canton may seize the customs collected in its territory or declare Southern ports free ports or make difficulties for foreign interests in [the South]. However, it may seem to the Department worth while thus to force the issue in this domestic strife.

CRANE

893.51/3162 : Telegram

The Acting Secretary of State to the Minister in China (Crane)

WASHINGTON, January 5, 1921—5 p.m.

3. Your 464, December 27, 5 p.m.

The Department welcomes the opportunity to revert to a more regular procedure in this matter, the Diplomatic Body taking no formal cognizance of such allocations of funds as the Peking Government may see fit to make to the so-called Southern Government. It considers that any such arrangement should properly be a matter for the decision of the Peking Government without reference to the Treaty Powers who recognize only the Government at Peking and look solely to it for the fulfillment of obligations charged upon the Customs revenues. It is therefore desired that you take the position

that the Diplomatic Body should concern itself solely with the release to the recognized Government of China of customs balances available after satisfaction of Boxer Indemnity⁹⁰ and service of pre-Boxer loans, and that it should neither sanction nor make objection to the subsequent allocation of such funds to the Southern Government.

DAVIS

893.51/3210 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 20, 1921—3 p.m.

[Received January 20—1:48 p.m.]

42. British Minister informs me Canton Government threatens to seize Maritime Customs Revenue February 1st unless Southern portion of surplus released to it. He proposes to inform Canton that in that event the British Government will effect trade embargo between Canton and Hong Kong and will send British military forces to protect customs house. He states that similar threat made under similar circumstances in 1918 with the concurrence of American, French and Japanese Legations and requests my concurrence now. The British Government apparently desires to assume the responsibility for the protection of customs especially in Canton. I informed British Minister of the Department's 3, January 5, 5 p.m. and he urged me at once to inform the Japanese thereof and stated that the latter had informed him that it seemed a contradiction of policy for the diplomatic body not to give the Southern customs portion to the Government at Canton so long as the American Government was permitting the shipment of arsenal machinery to Canton. I have not yet discussed your telegram with any other legation. Please instruct.

CRANE

893.51/3212 : Telegram

The Vice Consul in Charge at Canton (Price) to the Acting Secretary of State

CANTON, January 21, 1921—12 a.m.

[Received 11:36 p.m.]

By reason of reported decision delivered by Peking to release Southern portion customs surplus to Peking, Canton Government has announced that it will assume administration of the customs within the territory it controls. Beginning February 1st it guarantees the payments of its quota of the foreign obligations for which the revenue has been hypothecated and that present personnel will

⁹⁰ See pp. 398 ff.

be left unchanged. Cantonese feel that foreign powers are trying to force them into an unnatural union with a government they do not consider represents the Chinese people and to suppress their aspirations toward self-determination. I believe that the Southern Government as now constituted has the support of large proportion of the people [of] the South and that it is to American interests to let them work out their own destinies. Legation at Peking has been informed.

PRICE

893.51/3216 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 23, 1921—1 p.m.

[Received January 24—10:40 a.m.]

53. Dean of the diplomatic corps circulates telegram from Wu Ting-fang, Canton, of which following summary:

As the Military Government of the Republic of China exercises all power in constitutionalist provinces, *de facto* as well as legal, it is an absurdity and anomaly for Chinese Maritime Customs to function in those provinces under orders Peking and collect and divert revenue for use elsewhere, this Government has ordered therefore that the customs service in those provinces shall after February 1st be subject to its orders and control. Those of the present personnel who acknowledge authority of Canton will be retained and rules hitherto not [*sic*] existing shall be observed. Foreign obligations on the customs shall be scrupulously met and shall form first charge *pro rata* on the coldness [*sic*]. Sympathy and cooperation of the foreign powers requested.

Dean of the diplomatic corps not replying. British Minister requesting prompt meeting of the diplomatic corps to discuss measures described in my 42, January 20, 3 p.m. Section 2 to follow.⁹¹

CRANE

893.51/3220 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 26, 1921—1 p.m.

[Received January 26—8:28 a.m.]

58. My 53, January 24 [23], 1 p.m. Section 2.⁹² Acquiescence in seizure of customs by Canton would amount to withdrawal of recognition from Peking as Government whole China and create

⁹¹ No second section to this telegram received by the Department; presumably this refers to telegram no. 53, Jan. 26, 1 p.m., *infra*.

⁹² Telegram no. 58 is probably intended for the second section of the Minister's telegram no. 53, *supra*.

great probability of similar action elsewhere precipitating disintegration with danger recrudescence of spheres of interest. Moreover the operation of Maritime Customs Service under foreign supervision has been most powerful factor in maintenance of China's prestige and existence internationally since 1911. In the absence of contrary instructions or recommendations I therefore propose to join other Legations in joint action similar to that taken during the revolution in safeguarding Customs Revenues, the object being to keep Customs Administration from embroilment in politics. I recognize the undesirability of incurring hostility Canton faction with possible reprisals on foreign interests and trade as well as allowing the Chinese Government to depend upon foreign assistance in the collection of its revenues but I feel that the Powers incurred responsibility by paying Canton portion surplus 1919 and 1920 thus pointing the way to present attitude of Wu Ting-fang faction. Action outlined in Department's 3, January 5, 5 p.m. impossible if seizure of customs successful.

CRANE

893.51/3221 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 26, 1921—11 a.m.

[Received 12:01 p.m.]

59. My 53, January 24 [23], 1 p.m. At a meeting of the diplomatic corps today it was unanimously decided to send following telegram to senior consul at Canton:

"The diplomatic body has resolved that their consular representatives in Canton should inform Dr. Wu that no interference with the present loan service arrangements or with the administration of the customs will be tolerated.

The diplomatic body leaves it to the discretion of the consular body to decide whether the communication shall be made collectively or individually, verbally or in writing. The consular body should place itself in communication with the commissioner of customs as to the measure which should be adopted for the collection of customs duties in southern ports in the event that this above intimation fails in its effect and report by telegraph the action proposed. The Inspector General of Customs will be informed".

Meeting also accepted in principle allocation \$420,000 for maintenance of present Kwangtung conservancy work from accumulated Southern customs surplus now amounting to 2,500,000 taels. Consular representatives in Canton to be requested to make suggestions as to allocation of remaining sum for Southern constructive non-political works.

CRANE

893.51/3210 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, January 27, 1921—7 p.m.

44. Your No. 42 of January 20, 3 p.m., and No. 53 of January 23, 1 p. m.

You should bring Department's No. 3 of January 5, 5 p.m., to the attention of your colleagues without delay. With regard to threat of Canton Government to seize custom houses and your attitude thereon in conference of diplomatic body, you should be guided by policy outlined in Legation's telegram of September 5, 7 p.m., 1918.⁹³ In this connection instruct Canton referring to its telegram to the Department of January 21, 12 a.m. to be guided by Legation's telegram of September 5, 7 p.m., 1918.

COLBY

893.51/3224 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, January 29, 1921—7 p.m.

[Received January 29—3:18 p.m.]

67. Your 44, January 27, 3 [7] p.m. In view of collective action consular body Canton described my 59, January 26, 11 a.m., Legation is calling attention consul Canton to Legation's September 5, 8 [7] p.m., 1918, as indicating Department's general attitude but not for further individual action by him pending Department's additional instructions.

CRANE

893.00/3728

The Chinese Legation to the Department of State

MEMORANDUM

The Military Government of the Southwest Provinces having been dissolved, it is reported that the self-styled Military Government of the Province of Kwangtung has made known to the diplomatic representatives of foreign governments its intention to obtain control of the Maritime Customs of the treaty ports in the Southwest Provinces.

The only governmental agency charged with the administration of the Maritime Customs of China is the Inspectorate General of the Maritime Customs.

⁹³ *Ante*, p. 491.

The action on the part of the Province of Kwangtung to divide the country and bring about a separation cannot be permitted and will not be recognized by the Government of the Republic of China.

WASHINGTON, *February 1, 1921.*

893.51/3232 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, *February 2, 1921—noon.*

[Received February 3—10:28 a.m.]

72. Your 44, January 27, 3 [7] p.m. Before communicating Department's views Legation desires to call attention to [apparent omission] that since the revolution all releases of customs funds including surpluses have required the assent of diplomatic body. For procedure see dean's circular 252 [251] transmitted with Legation's despatch 663, January 3rd.⁹⁴ Under guidance of Inspector General customs receipts has [*have*] been used to meet reorganization loan 1913⁹⁵ for which charges 1921 amount to pounds 1,260,000. Furthermore, Russian and German indemnities⁹⁶ are retained by Inspector General for service of third and fourth national internal silver loans and remaining deferred indemnities for seventh year short-term bonds which will be fully paid up before expiration deferred indemnity. Legation ventures to suggest in lieu of abandoning this means of control by the diplomatic body the possibility of arriving at an understanding between it and the Chinese Government whereby the entire Customs Revenue be earmarked for national purposes such as pre-Boxer loans, indemnity, 1913 reorganization loan, third and fourth year internal loan issues, harbor and river conservancy, maintenance of Foreign Office, diplomatic and consular representatives, and education, thus eliminating territorial question and insuring Southern participation in the benefits of Customs Revenues. This procedure is based on plan added by Inspector General. It would mean large measure of control over Chinese funds but Chinese Government is admittedly approaching open financial bankruptcy during present year⁹⁷ and some form supervision seems desirable and essential to avoid repudiation of its large obligations as well as disappearance of national entity to be succeeded possibly by disintegration with opportunities for spheres of interest. The above

⁹⁴ Not printed.

⁹⁵ See *Foreign Relations*, 1913, p. 180.

⁹⁶ For deferment of payments on Boxer indemnity, see *ibid.*, 1917, supp. 2, vol. 1, p. 686.

⁹⁷ See pp. 346 ff.

suggestion is made because the American consulate Canton and the assistant military attaché recently there attribute attempted action of Canton Government in regard to customs to anticipation that diplomatic body intend to hand Southern portion surplus to Peking Government for uses prejudicial to Southern interests and Legation ventures to suggest that our American participation in joint diplomatic action may have aroused especial antipathy against United States. It would be perhaps unwise for this Legation to take initiative in action tending to release Southern portion of surplus to Peking without qualifying measures outlined above.

CRANE

 893.51/3228 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, February 3, 1921—1 p.m.

[Received February 3—8:33 a.m.]

75. Legation's 59, January 26, 11 a.m. Inspector General customs is informed that Wu will postpone further action in regard to seizure of the customs. Wu asks that last year's surplus held at Shanghai be remitted to South. Legation proposes press for immediate allocation entire sum 2½ million taels controlling [*sic*] Southern conservancy with customary foreign consular cooperation and for notification from diplomatic body to Wu through consular body Canton.

CRANE

 893.51/3228 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, February 4, 1921—7 p.m.

54. You will refrain from pressing for allocation of customs surplus as proposed in your telegram 75, February 3, 1 p.m. Further instructions follow.

COLBY

 893.51/3232 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, February 8, 1921—7 p.m.

60. Your telegrams 72, February 2, noon; 75, February 3, 1 p.m. So far as this Government is aware the assent of diplomatic body to releases of customs surpluses has been required only in order to assure the service of Boxer Indemnity and pre-Boxer loans as provided by the arrangement for the commission of bankers as

first established January 30, 1912,⁹⁸ and subsequently modified from time to time. That agreement constitutes the commission of bankers acting in behalf of the diplomatic body as trustees to receive the customs revenues for the sole purpose of satisfying from them the charges due upon the specified obligations of the Chinese Government and any surplus thereafter remaining is to be deemed as a credit balance held in trust at the free disposal of that Government. It is further understood that allocations recently made to the Canton Government from customs surplus were so paid by authorization of the Peking Government which has now withdrawn that authorization. It is the opinion of this Government that in the absence of any such assent by the Government which alone is internationally recognized in China, it is not within the competence of the Powers to withhold the balances due the Government or to impose new conditions for the release of the funds held in trust for it.

Although the Reorganization Loan is secured primarily upon the Customs and secondarily upon the Salt revenues it is not under the contract entitled to service through the Bankers' Commission: and it would seem that neither to that loan nor to the domestic loans that your telegram enumerates can the diplomatic body give the advantage of such service without at least appearing to take the position that China is already bankrupt and that the foreign powers are entitled to take possession of the assets and establish such a method of distribution among creditors as they see fit. Whatever may be the reasons to apprehend that possibility this Government is not prepared to accept a belief in China's insolvency and abandon the hope of reconstruction in cooperation with the Consortium.

The same reasoning applies to the suggestion that the Powers permit the Chinese Government to receive and employ its own free balances of revenue solely for such uses whether constructive or political, as the Powers may dictate. Such an extension of the strictly limited control which is now exercised by virtue of the agreement for the International Bankers' Commission would in the view of this Government be a breach of trust and a gross violation of the fiscal and administrative independence of China.

The Department is gravely concerned that the views indicated in its telegram, No. 3, January 5, 5 p.m.,⁹⁹ 'should have been so misunderstood as to allow the Legation to propose taking the initiative in pressing for the imposition of conditions upon the release of Customs surplus due to the Chinese Government. You are herewith instructed

⁹⁸ For text of arrangement for the establishment of a Commission of Bankers to receive the customs revenues for the service of the foreign debt charged thereon, see MacMurray, *Treaties and Agreements with and concerning China*, vol. II, p. 946.

⁹⁹ *Ante*, p. 494.

to explain without further delay to your colleagues and to the Foreign Office the substance of that instruction as also of the present telegram. You will also telegraph these two instructions to the Consulate General at Canton for informal communication to Dr. Wu Ting-fang with the further comment that this Government cannot consider the question as one between north and south but that recognizing only the Peking Government it finds itself constrained to insist upon the principle of trusteeship as the alternative to a procedure which could not but impair the independence of the whole of China.

COLBY

893.51/3246 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, February 8, 1921—10 p.m.

[Received February 8—12:42 p.m.]

81. British, French, Portuguese consuls Canton desire that whole accumulated Southern portion customs surplus be devoted to present conservancy projects after deducting equitable contribution of Southwest to maintain China's representation abroad. American consul advocates allocation portion as above and portion for creation deep-water, purely Chinese port at terminal Canton-Hankow Railway. Diplomatic meeting February 10, 11 a.m. to consider subject. I request replies to my 72 of February 2, noon and 75 of February 3, 1 p.m.

CRANE

893.51/3266 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, February 15, 1921—4 p.m.

[Received February 15—10:04 a.m.]

89. Your 60, February 8, 7 p.m. Instructions to inform my colleagues, Foreign Office, and Canton in regard to accumulated though unpaid allocations recently made and future Southern surpluses have been carried out.

In a confidential interview Inspector General Customs informed me of his forebodings in view of possible bankruptcy Central Government.

CRANE

893.51/3268: Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, February 18, 1921—7 p.m.

[Received February 18—12:25 p.m.]

93. Quo Tai-chi on behalf of Canton Government requests that the Legation point out to the Department that the accumulated Southern customs surpluses were allocated with Peking Government's consent withdrawal of which is retroactive and *ultra vires*, same argument applying to position of the diplomatic body which has recently rejected Peking's application for these funds. I have no comment.

CRANE

893.51/3286: Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, March 1, 1921—1 p.m.

[Received March 1—12:34 p.m.]

103. My 89, February 15, 4 p.m. At a recent diplomatic meeting it was made clear that the diplomatic body does not approve plan of allowing Central Government to have accumulated sum allocated to Southern Government. It was unanimous in indorsing plan to set aside \$420,000 to complete necessary flood conservancy work at Canton on condition of approval of Central Government. The diplomatic body asks you to approve this plan in this form.

While the Central Government approves Imperial Government work and has furnished money for it before, it objects in principle to the diplomatic body's either holding the accumulated sum any longer or having any strings on it. The Foreign Office has now addressed identic notes to foreign Legations asking for release of full accumulated amount and proposes itself to set aside 420,000 taels for Canton conservancy work, 700,000 taels for diplomatic and consular expenses abroad which is months in arrears and represents all China and 1,400,000 taels to be placed with Inspector General of Customs for service of domestic loans, adding that such use of funds is not of political nature and affords no cause for opposition. The Legation requests instructions.

CRANE

893.51/3286 : Telegram

*The Secretary of State to the Minister in China (Crane)*WASHINGTON, *March 2, 1921—5 p.m.*

82. Your 103, March 1, 1 p.m.

Department has nothing to add to its number 3, January 5, 5 p.m., and 60, February 8, 7 p.m., by which you should be guided in the matter.

COLBY

893.51/3308 : Telegram

*The Vice Consul in Charge at Canton (Price) to the Secretary of State*CANTON, *March 10, 1921—3 p.m.*

[Received March 11—1:32 a.m.]

With reference to the Department's telegrams January 5, 5 p.m. and February 8, 7 p.m. to the Legation which under your instructions I communicated to Wu Ting-fang. The latter asks that the following be sent the Department of State:

"This Government welcomes the principles of noninterference in China's fiscal and administrative independence as set forth by the American Department of State, but finds it difficult to reconcile the acceptance of the principle with the action of the diplomatic body when it on January 26th served notice on my Government, when the latter sought to assert its authority over the Customs Administration functioning in the provinces under its jurisdiction without in the least jeopardizing the interests of foreign creditors, that 'No interference with the administration of the Maritime Customs would be permitted.' This Government would welcome the acceptance and the application by foreign powers of the principle of noninterference with China's purely domestic affairs beyond the bounds specifically defined by treaty, thus permitting the Chinese people the fullest possible measure of self-expression in working out their own destinies.

This Government would observe that if and insofar as foreign powers are in a position of trustees of certain Chinese revenues, they should consider themselves trustees not for a technically and momentarily recognized government such as the so-called Peking Government but for the Chinese people who are the ultimate sovereign. I cannot refrain from pointing out the disastrous consequences to Chinese democracy and the deplorable impression on the Chinese people of a policy on the part of the United States of supporting and continuing to recognize a government not recognized by the Chinese people themselves.

To avoid possible misunderstanding I would request that you instruct your Legation at Peking that after the satisfaction of specified foreign charges the oriental [*sic*] surplus should be considered

at the disposal of the Inspector General of Customs, who is a servant of the Republic and has acknowledged the authority of this government.”

In view of the nature of the above message it seemed wiser to transmit it in code for Doctor Wu rather than have it go forward in plain.

PRICE

893.51/3313 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, March 12, 1921—2 p.m.

[Received March 12—9:38 a.m.]

112. Your 82, March 2, 5 p.m. At a meeting of the diplomatic corps today in view of the attitude of American Government all Legations except French were prepared to accept proposal of Foreign Office as outlined my 103, March 1, 1 p.m. for disposal of accumulated customs surplus. As French Minister declined to accept Foreign Minister's proposal it was decided that each Legation would reply separately to Foreign Minister. Thus unless French Minister yields deadlock has been reached.

CRANE

893.51/3334 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, March 27, 1921—4 p.m.

[Received March 27—11:53 a.m.]

130. Legation's 112, March 12, 2 p.m. French have finally yielded. The Chinese Government is very grateful to the United States.

CRANE

THE QUESTION OF THE ABOLITION OF EXTRATERRITORIALITY¹

Chinese Presidential Mandate Creating a "Commission for the Consideration of Jurisdiction"—Attitude of the Department of State toward the Abolition of Extraterritoriality

893.00/3820

The Minister in China (Crane) to the Secretary of State

No. 881

PEKING, February 24, 1921.

[Received April 7.]

SIR: In further reply to the Department's telegraphic instruction No. 401, of December 29, 1920, 4 p.m.,² and in confirmation of the Legation's telegraphic reply No. 12, of January 8, 1921, 3 p.m.,²

¹ For previous correspondence, see *Foreign Relations*, 1919, vol. I, pp. 674 ff.

² Not printed.

relative to the promulgation of a Presidential Mandate creating a "Commission for Preparation of Extraterritorial Abolition", I have the honor to submit herewith a copy of the original mandate, with translation of same, together with certain information for the consideration of the Department.

The Legation is informed that the Commission was duly appointed following the promulgation of the mandate of November 6, 1920, Wang Ch'ung Hui, Chief Justice of the Supreme Court, being appointed as Chairman, and Chang I P'eng, Vice Minister of Justice, as Vice Chairman. The creation of the Commission was in direct answer to the need of a body to consider definite regulations to govern in the cases of Germans and other foreigners to whom extraterritorial jurisdiction did not extend, owing to the absence of treaty provisions, and was also in direct furtherance of China's demands at the Peace Conference, relative to the abolition of extraterritoriality.

The Foreign Office states that at the present time the Commission is considering general legal matters with particular reference to reform of the judiciary, and while the matter of the abolition of extraterritoriality has not particularly engaged the attention of the Commission, the general trend of the Commission's activities will be along lines looking to the recovery by China of the jurisdiction now held by treaty powers over their nationals in China.

I have [etc.]

CHARLES R. CRANE

[Enclosure—Translation]

Mandate Issued by President Hsu Shih-ch'ang, November 6, 1920

The Regulations Governing the Commission for the Consideration of Jurisdiction now having been decided upon, public proclamation is made by this Mandate.

SEAL OF THE PRESIDENT

(Signed)

Premier—CHIN YUN P'ENG

Minister of Foreign Affairs—YEN HUI CH'ING

Minister of Justice—TUNG K'ANG

REGULATIONS FOR THE COMMISSION FOR THE CONSIDERATION OF
JURISDICTION

1. The Commission for the Consideration of Jurisdiction shall consider in reference to preparation for the receiving back of jurisdiction; it shall take necessary steps for this work, as well as make necessary arrangements for the future.

2. The Commission for the Consideration of Jurisdiction shall consist of a Chairman, a Vice Chairman and 16 members.

3. The Chairman and Vice Chairman shall be especially appointed by the President (of China).

4. The members of the commission shall be designated by the Ministers of Foreign Affairs and Justice, acting together, and shall be selected from the Ministry for Foreign Affairs, the Ministry of Justice, or other office, from those having expert legal knowledge, or from those officials experienced in diplomatic relations, to act in the capacity (of members of the Commission). Foreigners employed in any Chinese bureaus may also be requested to act as members of the Commission.

5. The subjects which must be discussed by the members of the Commission are as follows:

1. Subjects proposed by Minister of Foreign Affairs or Minister of Justice.
2. Subjects proposed by Chairman of Commission.
3. Subjects proposed by members of Commission and approved by Chairman of Commission.

6. If there are subjects which demand special investigation, the Chairman of the Commission may designate certain members of the Commission to investigate.

7. When the discussion has been closed, a report must be drawn up and submitted to the Ministers of Foreign Affairs and Justice, and after approval by them the report may then be promulgated.

8. The Commission for the Consideration of Jurisdiction may establish a board of directors, the number of which must not exceed five, who receive orders from the Chairman, and who control the preparation of the subjects for discussion and who record the proceedings of the Commission and other matters. The members of the Board of Directors will be chosen from the Ministry of Foreign Affairs or the Ministry of Justice by the Minister of Foreign Affairs and the Minister of Justice.

9. Neither the Chairman, Vice Chairman, Members, nor Board of Directors of the Commission for the Consideration of Jurisdiction will receive salaries.

10. The Commission for Consideration of Jurisdiction may hire persons for transcribing and translating documents and for assistance on various matters and advice.

11. These regulations will go into effect from the day of promulgation.

793.003/34

*Memorandum by the Chief of the Division of Far Eastern Affairs,
Department of State (MacMurray)*

[WASHINGTON,] July 20, 1921.

Prince de Béarn, Counselor of the French Embassy, called on me yesterday (July 19) to say that the French Minister in Peking had advised his Government that M. Georges Padoux, a French citizen who is in the service of the Chinese Government as an adviser in the Audit, has gone back to France with instructions from the Chinese Government to present informally to the French Foreign Office the question of relinquishing extraterritoriality in China. The Prince also mentioned that an Englishman in the Chinese service—he could not recall who, but thought it not unlikely that it was Bertram Lenox Simpson (“Putnam Weale”),—had been similarly commissioned to approach the British Government on the subject. He inquired whether we had been approached in regard to this, and I told him that we had not; that there had, of course, been considerable discussion as to the question of extraterritoriality, but that no definite proposal, either formal or informal, had been communicated to the Department.

He then inquired what would be our attitude with regard to such a suggestion. I told him I thought I was safe in saying that we stood upon the position expressed in our treaty of 1903—namely, that we would welcome such a development of Chinese legislation, judicial procedure, and personnel as would warrant us in abandoning the extraterritoriality system; but that we could not feel that the Chinese Government had yet made sufficient progress along those lines to warrant our submitting American interests to Chinese jurisdiction; and that we could therefore do no more, in all probability, than consider sympathetically any suggestions which the Chinese might find fit to make with respect to the means of hastening the progress of the desired reforms.

He said that he understood the position of the French Government would be substantially the same, and asked me to advise him in the event of any approach being made to us on this subject in behalf of the Chinese Government.

MACM[URRAY]

DISORDERS AT ICHANG AND THE CONSEQUENT DEMAND BY THE
POWERS THAT THE CHINESE MILITARY AUTHORITIES BE HELD
PERSONALLY RESPONSIBLE FOR INJURY TO FOREIGN INTER-
ESTS IN CHINA

893.102 1c/3 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, June 24, 1921—4 p.m.

[Received June 24—10:47 a.m.]

230. At a meeting today in connection with two recent serious lootings at Ichang, recent looting at Wuchang, and imminent mutinies elsewhere, French, Japanese and American Legations agreed essential for the prevention similar outrages in the future endangering foreign lives and property and for exemplary purposes, to secure at Ichang foreign settlement area, understandings [*sic*] international municipal control with Chinese participation along the lines of Kulangsu settlement and non-stationing Chinese troops within a reasonable radius of such area to be determined subsequently. This action needed in view of the importance of Ichang as a gateway to Southwest China where large foreign missionary and trade interests located which use city as nearest place of refuge. Also agreed that it would be highly desirable to extend principle military neutralization to Hankow and such other traders [*treaty?*] ports as necessity may require.

Earnestly request authorization to share in joint representation to the Foreign Office along these lines before June 29. American interests imperiled and this step appears to be mildest measure likely to be effective.

RUDDOCK

893.102 1c/3 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, June 29, 1921—5 p.m.

184. Your 230, June 24, 4 p.m.

Department is opposed to principle of military neutralization (see *Foreign Relations* 1902, page 184) and does not find reason to feel that the establishment of an international settlement would assure safety of Ichang. You will be guided accordingly in discussions which arise in Diplomatic Body.

HUGHES

893.102 Ic/4 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 5, 1921—5 p.m.

[Received July 5—3:45 p.m.]

247. Your 184, June 29th, 5 p.m. At diplomatic corps meeting today all members except myself voted to make representations to Chinese Government along lines my 230, June 24th, 4 p.m., as absolutely essential to safety of foreigners in Yangtze Valley. Corps strongly urge American Government join in representations and asks reply within three days. Department, I am sure, realizes that at no time in modern history, not even including Boxer days, has Chinese Government authority been at so low an ebb and foreign interests so harassed. Disorders are rampant in every quarter of the country, Central Government is virtually powerless. China seems inevitably faced with long period of domestic chaos. It seems hard to believe foreigners could maintain establishments and without protection of existing settlements. For instance on the occasion of Wuchang mutiny June 8th when foreign concessions alone saved foreign interests in Hankow. By the same token and in accordance with treaty provisions foreigners strictly have right to foreign-settlement area at Ichang without further infringing Chinese sovereignty especially as Chinese participation would be invited. Legation strongly believes that removal of threatening troops from specified ports and cooperation of foreign and Chinese commercial interests in the maintenance of model settlements would afford useful encouragement to Chinese people downtrodden by militarists.

RUDDOCK

893.102 Ic/5 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 6, 1921—6 p.m.

[Received July 6—6:03 p.m.]

248. My 247, July 5, 5 p.m. Consulate general at Hankow reports large mass meeting Chinese at Ichang resulting in resolutions for international settlement along lines of Chefoo including international volunteer corps and international municipal council. Resolutions signed by President of Chinese Chamber of Commerce, et cetera. It emphasizes plan will not be detrimental to sovereignty of China.

RUDDOCK

893.102 Ic/4 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 12, 1921—5 p.m.

193. Your 247, July 5, 5 p.m.

Department believes measures proposed in your 230 June 24, 4 p.m., would rather intensify the situation and precipitate troubles apprehended. Do you consider conditions in the neighborhood of Ichang so critical as to warrant a warning that Americans should repair to places of safety as in 1911³ and recently at Urga?

HUGHES

893.102 Ic/4 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 15, 1921—6 p.m.

198. Department's 193, July 12, 5 p.m.

As an alternative to measures suggested in your June 24, 4 p.m., Department has informally discussed with British Embassy the following suggestion: that Diplomatic Body address Chinese Government a joint note warning it of danger of further mutiny at Ichang stating that in the event of injury to foreign interests the Powers will insist upon the Chinese Government holding the higher military authorities concerned personally responsible and will deny them refuge in their own territories or in the foreign settlements and concessions in China and will reserve the right of exacting from the Chinese Government punitive damages for any such injuries to the persons or property of their nationals resulting from a neglect of this warning; and that copies of this note be communicated through appropriate consuls to military authorities concerned.

You will discuss this suggestion in the first instance with your British colleague and advise the Department whether it appears practicable and efficacious.

HUGHES

893.102 Ic/6 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 15, 1921—7 p.m.

[Received July 15—1:54 p.m.]

262. Your telegram number 193, July 12th, 5 p.m. Diplomatic corps informed of Department's views. Ichang situation not deemed as critical as Urga, however understand that a third loot-

³ See *Foreign Relations*, 1912, p. 162.

ing there narrowly avoided recently through the presence of several foreign gunboats. While it is never possible forecast strength and location of mutinies which are becoming increasingly common, it is not thought that warning should as yet be given as in 1911.

However, I am inquiring the opinion of Admiral Strauss⁴ who was recently in Ichang and shall report again.

RUDDOCK

893.102 Ic/10 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 21, 1921—6 p. m.

[Received July 22—11:23 a.m.]

268. Your 198, July 15th, 6 p.m. The two Legations would welcome Department's proposals if possible execution but this unfortunately appears doubtful. Unanimity diplomatic corps on abolition of asylum improbable. Japanese Legation refused to deny asylum 1920. Still harbors Anfus. Right to grant asylum always claimed for French concession Shanghai where Chang Ching-yao recently sheltered. Also opposition certain smaller countries apprehended.

While unanimity diplomatic corps on the proposal for personal responsibility and punitive damages probably obtainable, previous efforts to fix blame through such measures for foreign losses have resulted in failure as in the case of Chang Ching-yao.

Also feared insistence upon principle of personal responsibility would result in attacks on foreigners and foreign property by enemies of officials in power to discredit latter.

Would the Department assent to proposal of diplomatic body if limited to a term of years?

RUDDOCK

893.102 Ic/10 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 30, 1921—5 p.m.

216. Your 268, July 21, 6 p.m.

The Department perceives no reason for departing from policy outlined in its 184 of June 29, 5 p.m., 193 of July 12, 5 p.m., and 198 of July 15, 6 p.m., whether permanently or for a term of years. You will ascertain from British Legation whether it will support proposal outlined in Department's 198 of July 15, 6 p.m., if proposed

⁴Rear Admiral Joseph Strauss, Commander in Chief of the American Asiatic Fleet.

to the Diplomatic Body. Reports just received from Hankow regarding looting of Ichang and Wuchang state that looting was done by soldiers in transit or about to be demobilized with no indication of anti-foreign feeling. Please advise of correctness of these reports.

HUGHES

893.102 Ic/11 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, August 5, 1921—5 p.m.

[Received August 6—2:12 a.m.]

279. Your 216, July 30th, 5 p.m. British prepared to support but anticipate failure for asylum proposal. British recommend demand upon Chinese by diplomatic corps for joint foreign commission investigate Ichang situation find means prevent repetition. Would Department concur?

RUDDOCK

893.102 Ic/12

The Secretary of the British Embassy (Craigie) to the Chief of the Division of Far Eastern Affairs, Department of State (MacMurray)

WASHINGTON, August 6, 1921.

MY DEAR MR. MACMURRAY: Since writing my letter of to-day about naval cooperation in the Yangtse,⁵ we have received a further telegram from the Foreign Office in regard to the difficulty of securing at Peking unanimous approval for your last proposal for a settlement of the "Ichang" question. The Foreign Office further state that Chinese Commissioners in Ichang have now petitioned the Chinese Government in favour of some form of international settlement and neutralization, while the Taoyin, in a petition to the Governor of the Province, urges limiting the number of troops and taking the initiative in the matter of a settlement before it is extorted by Foreign Powers; he refers also to the fact that the question of an international settlement has been discussed since 1883 and that in 1915 Wai-chiao-pu were in favour of one on certain conditions.

The Foreign Office ask the Embassy to point out to the State Department that the chances of obtaining from the Chinese some degree of compliance with the demand for an international settle-

⁵ *Post*, p. 525.

ment are now not unfavourable, provided that prompt action is rendered possible by agreement amongst the Powers.

I should be very grateful, therefore, if you would let me know as soon as possible whether, having regard to the attitude of the Chinese local authorities as explained above, the State Department would not see their way to reconsider their decision in regard to the scheme for an international settlement. As you know, there is general agreement now except for the United States and, in the interest of showing a united front in face of a somewhat threatening situation, the British Government still hope that the State Department may see their way to join in a scheme which now appears to show every prospect of success.

I am making this communication in the form of a semi-official letter to you instead of by note because we have discussed this question very fully at different times, and because time, which is the essence of the question, will probably be gained thereby.

Very sincerely yours,

R. L. CRAIGIE

893.102 Ic/11 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, August 9, 1921—4 p.m.

222. Your 279, August 5, 5 p.m.

In view of your reports as to the urgency of the situation the Department considers that action upon the suggestion contained in its 198, July 15, should not be postponed to await the result of such an investigation. The Department therefore hopes you will be able to obtain the early consent of the Diplomatic Body thereto.

HUGHES

893.102 Ic/15 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, August 9, 1921—5 p.m.

[Received August 9—10:48 a.m.]

283. Your 198, July 17 [15], 6 p.m. Is denial of asylum only to follow proscription of offender by the Chinese Government or is the diplomatic body or nationality concerned to decide who is to be

denied asylum? For example, Wang, Military Governor of Hupeh, responsible for Ichang lootings appears to be on the point of vacating his post.

RUDDOCK

893.102 Ic/16 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, August 9, 1921—10 p.m.

[Received August 10—9:26 a.m.]

284. Your 216, July 30th, 5 p.m. No evidence antiforeign feeling or particular consideration for foreigners.

RUDDOCK

893.102 Ic/15 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, August 12, 1921—2 p.m.

226. Your 283, August 9, 5 p.m.

Denial of asylum should be left to diplomatic body and nationality concerned. Report details of any case actually arising.

HUGHES

893.102 Ic/17 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, August 16, 1921—5 p.m.

[Received August 16—10:53 a.m.]

288. Your 222, August 9th, 4 p.m. Diplomatic corps desires to make warning against future mutiny general and not limited Ichang. I am assenting.

RUDDOCK

893.102 Ic/22 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, August 23, 1921—10 p.m.

[Received August 24—6:52 a.m.]

295. My 288, August 16th, 5 p.m. Diplomatic body today accepted Department's proposals with the proviso that they may apply retroactively to Ichang and Wuchang mutinies and on understand-

ing that diplomatic body as a whole will support claims for punitive damages of the nationals of a particular country injured by proscribed official. Does Department approve? Dean of the diplomatic corps delaying note to Foreign Office. Requests your reply within three days.

RUDDOCK

893.102 Ic/22 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, August 26, 1921—11 a.m.

238. Your 295 August 23, 10 p.m.

Department approves arrangement with attached proviso but reserves right to refuse to support any claim which it believes to be unjust. Mail instruction follows relating specially to compensatory claim.⁶

HUGHES

893.102 Ic/28

The Minister in China (Schurman) to the Secretary of State

No. 45

PEKING, September 29, 1921.

[Received November 9.]

SIR: With reference to the Department's telegraphic instruction of August 26, 11 a.m., No. 238, and previous correspondence regarding the Ichang situation, I have the honor to transmit herewith copies of the circular of the Dean of the Diplomatic Corps of August 30, 1921, No. 150, which contains the text of a note on the subject which the Dean addressed on that day to the Minister for Foreign Affairs on behalf of the Diplomatic Body, together with the text of a letter, dated August 29th, which Mr. Ruddock addressed to the Dean in pursuance of the Department's instruction under reference.⁷

There are further enclosed copies of Dean Circular No. 156, of September 24, 1921, giving the reply of the Chinese Government to the Dean's note of August 30th.⁸ In commenting upon this circular, I have simply noted that I was transmitting the text of Dr.

⁶No record in Department that mail instruction was sent.

⁷Only that part of circular 150 containing the note of Aug. 30 addressed by the dean to the Chinese Minister of Foreign Affairs, has been printed.

⁸Only that part of circular 156 containing the reply of the Chinese Government has been printed.

Yen's communication to my Government for such instructions as it might deem suitable. I accordingly have the honor to request the Department's views in the premises.

I have [etc.]

JACOB GOULD SCHURMAN

[Enclosure 1]

The Dean of the Diplomatic Corps (De Freitas) to the Chinese Minister of Foreign Affairs (W. W. Yen)

PEKING, August 30, 1921.

MONSIEUR LE MINISTRE: I have the honour to inform Your Excellency that the Diplomatic Body feel it incumbent upon them to draw the very serious attention of the Chinese Government to the deep apprehension felt by the Foreign Legations in view of the numerous recent instances where Chinese troops comprising portions of either the national or provincial organizations have openly rebelled against the duly constituted military authorities, and have in a lawless and wanton manner plundered the property of foreigners and placed their lives in danger. The mutinies and looting at Ichang on November 30, 1921 [1920], and June 3, 1921, and that at Wuchang on June 7, 1921, although by no means the only instances to be cited, afford the most striking examples in recent months. These occurrences unavoidably cast doubt on the ability or the efforts of the higher provincial authorities to afford adequate protection to foreign residents and trade in the regions of their respective jurisdiction.

The Diplomatic Body desire further to point out that the conditions under which the looting took place appear to continue without abatement, and that foreign nationals engaged in business at Ichang and other places open to trade as well as their merchandise *en route* in the interior and also foreign missionaries resident at isolated places are all in danger from the depredations of the great numbers of troops found throughout the provinces.

The Diplomatic Body feel obliged therefore in the face of these perils to their nationals to warn the Chinese Government that the Foreign Powers will insist that the Chinese Government hold the higher military authorities personally and individually responsible for any damage that may be caused to any foreign interests either by the action or failure to act of troops under their respective commands in territories under their protection.

The Powers, for their part, hereby declare to the Chinese Government that no refuge or asylum will be given by their respective au-

thorities either in their own countries or in any concession, settlement, leased territory, or other territory in China under their control to any Chinese official adjudged by the Diplomatic Body guilty in the manner indicated. Moreover, the Powers inform the Chinese Government that they reserve the right of exacting from the Chinese Government punitive damages for any such injuries to the persons or properties of their nationals resulting from a neglect of this warning.

It is to be understood that the Diplomatic Body consider themselves free to act in the sense of the foregoing paragraph in regard to the recent mutinies at Ichang and Wuchang.

I avail myself [etc.]

J. B. DE FREITAS

[Enclosure 2—Translation]

The Chinese Minister of Foreign Affairs (W. W. Yen) to the Dean of the Diplomatic Corps (De Freitas)

[PEKING,] *September 23, 1921.*

MONSIEUR LE MINISTRE: I have the honour to acknowledge the receipt of Your Excellency's Note dated the 30th. August, in which it is stated that recently the Chinese troops have several times rebelled against the duly constituted military authorities and have plundered the property of the foreigners and placed their lives in danger, and that it is requested that the Chinese Government will hold the higher military authorities personally and individually responsible.

In reply I have the honour to state that this Ministry has notified the different provincial authorities to pay more attention to preventing further disturbances and at the same time the matter was brought up for discussion at a Cabinet meeting. On the petition of the Cabinet, the President has despatched circular telegrams to the different provinces, instructing the provincial high military and civil authorities to strictly warn and control the troops, so that there may not be any further occurrence of mutinies or disorder, and that in the event of any more disturbances breaking out, the said military and civil authorities shall be held responsible and no leniency be shown them.

Since regarding this matter, my Government has already issued strict warnings to the military and civil authorities of the different provinces, therefore, the reservation of the right to exact punitive damages as stated in Your Excellency's Note need not enter into discussion.

I avail myself [etc.]

W. W. YEN

**CONSIDERATION OF MEASURES FOR THE PROTECTION OF
AMERICAN COMMERCE ON THE YANGTZE***

811.0151/207

The Secretary of State to the Minister in China (Reinsch)

No. 765

WASHINGTON, March 4, 1918.

SIR: The Department acknowledges the receipt of your despatch No. 1734 of November 18, 1917,¹⁰ enclosing copies of correspondence exchanged between the Legation and the Consul at Chungking in regard to the use of the American flag. The Consul at Chungking appears to desire information relating to the use of the flag in connection with three classes of property.

1. Over offices and warehouses of American concerns represented by Chinese.
2. On small boats owned by Americans and used in Chinese waters.
3. On Chinese boats carrying American passengers or American owned goods.

The Department has given careful consideration to the matter of the use of the American flag in China and can see no objection to the use of the flag over the offices or warehouses in China of American concerns represented by Chinese or on small boats owned by American citizens and used in Chinese waters, provided, that the use of the flag in such cases is not in contravention of local law, and does not disturb the peace.

The Department considers, however, that the use of the flag on Chinese boats carrying American passengers or American owned goods should not be resorted to.

As bearing on the general question of the use of the flag, the Department encloses herewith copy of an Act of February 8, 1917, entitled "An Act to prevent and punish the desecration, mutilation, or improper use, within the District of Columbia, of the flag of the United States of America."¹¹

This law is deemed of interest to the Legation and Consulates in China in view of the decision of the United States Circuit Court of Appeals of the Ninth Judicial Circuit to the effect that the laws of Alaska and the District of Columbia were applicable in China as laws of the United States¹² and in view of the practice of the United States Court for China in applying these laws to American citizens in China.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

* For previous correspondence concerning measures for protection of Americans and their property, see *Foreign Relations*, 1920, vol. 1, pp. 793 ff.

¹⁰ Not printed.

¹¹ 39 Stat. 900.

¹² *Biddle v. United States*, 156 Fed. 759 (1907).

893.00/3778

*The Consul in Charge at Shanghai (Perkins) to the Secretary of State*¹³

No. 479

SHANGHAI, *January 28, 1921.*

[Received March 2.]

Subject: Conditions of Foreign Residence in the Interior of China:
Yangtze Valley.

SIR: Referring to my despatch No. 430 of December 17, 1920,¹⁴ on the above entitled subject, I have the honor to advise the Department that the continued maintenance and strengthening of our naval forces on the Yangtze River is (in my opinion) indispensable to the protection of American missionary and business interests in this part of China. The dangers, both of person and of property, to which our citizens are becoming more and more exposed through the growing dissolution of responsible government can only be effectively met by a display of force, continually made at the numerous points in this valley accessible to our gunboats.

In view of the extent of the region to be patrolled, it is insufficient to depend upon the arrival of gunboat assistance at the immediate approach of trouble; and it is of little avail that ships arrive after catastrophes have occurred. Indemnities have no effect upon undisciplined soldiers who do not have to pay them; and actual culprits are not easy of identification or arrest. Our citizens resident in scattered places throughout the interior cannot be protected by a policy which tacitly admits the wide prevalence of chaotic conditions and seeks to meet this exigency only by rendering whatever physical assistance may chance to be available at or near the point of explosion.

What is essential is a studied plan to effect the recovery of foreign prestige in the Yangtze Valley from its present low status; its maintenance on a newer and higher level; and a purpose to steadily enhance it to a point where it may be relied upon to effect in itself the safety of foreign residents, except under the most extraordinary and unforeseen circumstances.

In order to secure such a happier condition of affairs, the Chinese must be constantly impressed by the visual evidence of our naval forces; by the alertness of our Diplomatic, Consular and Naval officials; and their concerted interest, in all acts of violence to person and property of American citizens. There must be created in the Chinese a state of mind which instinctively senses the certainty of

¹³ Copy sent also to American Legation, Peking, as an enclosure to despatch no. 553.

¹⁴ Not printed.

early retribution for such acts; and that officials, military and civil, will be held personally responsible for the lawlessness of the forces or districts which they assume to govern. When such an idea becomes fixed, it will not always be important whether naval forces are on hand in cases of individual crises; for there will be found a sufficient nucleus of Chinese officialdom and gentry who, for their own welfare, will see that harm does not come to American lives and property.

In brief, "prestige" should be made to prove adequate to afford due protection except under most extraordinary conditions. Its present low state is an invitation to violence. Failure to punish the shooting of Lehman at Liling in May, 1918,¹⁵ resulted in the murder of Reimert at Yochow, in June, 1920.¹⁶

The character of the naval forces in this valley, and the handling thereof, would appear to be matters more appropriate for discussion by the Department concerned. I venture, however, to observe, that the British naval forces in this valley have been at least doubled in the last two years and that the units have been selected for their usefulness on China rivers. Our own forces have not been increased; and, with two exceptions, are ill adapted for their work, inasmuch as their draft is too great. The vessels are thus unable to reach interior points at certain seasons, and, in the larger ports which they are able to reach, their diminutive size is apt rather to decrease than enhance the level of prestige the high attainment of which I have described as, in my opinion, indispensable in any well devised plan to protect our citizens in this valley.

Light draft vessels, and of good speed, are needed. It would also be a valuable adjunct, if certain of them were to have superstructures of an imposing, even if not too substantial nature, for the effect upon observers. Certain interior places, rarely or never touched, should be visited at intervals; and a sufficient number of vessels on the river would permit the occasional concentration of two or three ships with a far greater enhancement of our standing than the proportion would indicate. The annual withdrawal of almost the entire force on the Yangtze to the mouth of the river for target practice in the Spring of the year would appear to be a course involving much risk under conditions now prevalent. If the disorders which occurred in the Province of Hunan in June, 1920, had by chance taken place a few weeks earlier, it would have been found that the whole length of the river was at the time almost stripped of our gunboats.

In concluding these observations, I think it safe to say, after conversations with persons for whose opinions I have regard, that the

¹⁵ See report on the Liling troubles, dated May 15, 1918, *Foreign Relations*, 1918, p. 99.

¹⁶ See telegram no. 140, June 19, 1920, from the Minister in China, *ibid.*, 1920, vol. I, p. 806.

consensus of American sentiment in the Yangtze Valley would approve a strengthening of our naval forces here, and a more thorough study of how we may guard ourselves in the future against other, and perhaps worse, outrages than those already suffered; outrages which are certain otherwise to reoccur.

I have [etc.]

M. F. PERKINS

Endorsed in every detail.

CHARLES C. EBERHARDT
Consul General at Large

893.00/3804

The Minister in China (Crane) to the Secretary of State

No. 811

PEKING, *February 3, 1921.*

[Received March 29.]

SIR: I have the honor to refer to the despatch of the Consul in Charge at Shanghai of January 28, 1921, No. 553,¹⁷ regarding conditions affecting foreign residents in the interior of China, particularly in the Yangtze Valley, and the pressing need of greater American naval protection along that River.

I desire to join Consul General-at-Large Eberhardt in endorsing heartily the statements made in this despatch. American standing in the Yangtze Valley at the present juncture is undoubtedly at low ebb, due to a series of events in which the American authorities were not successful in demanding and obtaining the respect and security due to American persons and property in China. This country is undoubtedly upon the eve of a period of increased turmoil. It will therefore be impossible to look to the Central Government for adequate protection for Americans in the interior of China, and it behooves the American Government to take steps to supply with its own forces such protection to its citizens as may be possible.

I have [etc.]

CHARLES R. CRANE

893.00/3778

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, *March 28, 1921.*

SIR: I have the honor to enclose herewith for your information a copy of despatch No. 479 of January 28, 1921,¹⁸ from the American Consulate General at Shanghai regarding conditions of foreign residence in the Interior of China, particularly in the Yangtze Valley.

¹⁷ See footnote 13, p. 520.

¹⁸ *Ante*, p. 520.

The Department would be glad to receive an expression of opinion from you as to the feasibility of arrangements for increasing the Naval forces in that section of China, as is suggested in the enclosed despatch.

I have [etc.]

CHARLES E. HUGHES

893.00/3821

The Secretary of the Navy (Denby) to the Secretary of State

6320-278:21

WASHINGTON, April 5, 1921.

SIR: Referring to your letter of 28 March, 1921, (FE-893.00/3778), in which you request an expression of opinion as to the feasibility of arrangements for increasing the Naval Forces in the interior of China, particularly in the Yangtze Valley, and to your letter of 4 April, 1921, (FE-893.00/3804),¹⁹ in which you enclose a copy of a despatch from the Legation at Peking²⁰ on the subject of greater naval protection along the Yangtze River, I have the honor to inform you that this Department is now maintaining six gunboats for patrolling the Yangtze River and two gunboats in South China. This is the maximum number of vessels that can be maintained at the present time in connection with the patrol of Chinese waters. This Department is not only limited in personnel and funds, but has no vessels other than those now engaged in the patrol of Chinese waters which are suitable for Chinese river work. Recommendation has been made to Congress to supply new construction of a more satisfactory type for replacing the vessels now engaged in Chinese patrol work, but there is no probability that such vessels will be available in the near future.

The Department has under consideration the detail of a flag officer in a suitable vessel to administer the Yangtze patrol force. This additional vessel will be able to proceed some distance up the River, but will not be available for service in the upper reaches.

Very sincerely,

EDWIN DENBY

195.2/2701: Telegram

The Vice Consul in Charge at Canton (Price) to the Secretary of State

SHAMEEN (CANTON), May 26, 1921—3 p.m.

[Received May 27—1:16 a.m.]

American companies operating under charter Chinese-owned vessels plying inland waters desire to fly the flag of the United States at the masthead to indicate charter interests, the vessels continuing

¹⁹ Not printed.

²⁰ *Ante*, p. 522.

fly the flag of China aft and remain operating Chinese registry, Chinese authorities acquiescing and other nationals permitted. Does the Department sanction or prohibit? Please reply by telegraph as early as possible.

PRICE

195.2/2701 : Telegram

*The Secretary of State to the Vice Consul in Charge at Canton
(Price)*

WASHINGTON, May 31, 1921—5 p.m.

Your May 26, 3 p.m.

Department perceives no objection to Chinese vessels chartered to American Companies flying American flag at mast head. This procedure will not impose additional duties upon American Government beyond protection interests American charterers.

HUGHES

893.00/3984

The Secretary of the Navy (Denby) to the Secretary of State

27403-340:1

WASHINGTON, July 27, 1921.

SIR: I have to forward herewith for the information of the Department of State, a copy of a letter dated 7 June, 1921, from the Commander-in-Chief, U.S. Asiatic Fleet, at Shanghai, China, with attendant correspondence in regard to the placing of armed guards on vessels operating in the Yangtze River.

Respectfully,

EDWIN DENBY

[Enclosure]

*The Commander in Chief of the Asiatic Fleet (Strauss) to the Chief
of Naval Operations (Coontz)*

03-ng
2104-3-21

SHANGHAI, June 7, 1921.

1. Inclosures (A) to (J)^{20a} are explanatory of recent operations in the upper reaches of the Yangtze River.

2. It will be noted that the practice of sending armed guards on board Chinese junks to convoy Standard Oil Company's freight carried in other Chinese junks was authorized by the Commander

^{20a} Not printed.

Yangtze Patrol. It seems that these junks, owned by Chinese, frequently hoisted the American flag. As a result of this practice a junk with an armed guard of three enlisted men from the *Monocacy* was attacked in the night by robbers. The armed guard resisted the attack and repelled the robbers, but Everett Conley, a fireman second class, was wounded in the knee so badly that his leg had to be amputated.

3. The Commander in Chief has disapproved the practice of sending detachments of the crews of our gunboats to be quartered on board foreign-owned vessels to protect them, notwithstanding the fact that they are carrying American-owned goods. Apart from the illegality of such practice, the obvious result of weakening the influence of the United States flag as a protective agency would undoubtedly follow and probably lead to international complications. Subsequent to issuing the necessary orders (copy inclosed, marked (I)²¹), the Commander in Chief was furnished a letter from the Department of State²² by the Peking Legation which fully sustained this view. The British evidently hold the same opinion as will be noted in the last sentence of the despatch from H.M.S. *Widgeon* to the Senior British Naval Officer, Yangtze.²¹

4. While the Commander in Chief feels that the disturbed conditions in the interior of China releases us from too strict an application of international law, nevertheless he desires to avoid wounding the susceptibilities of the authorities of a friendly nation unnecessarily. The indiscriminate hoisting of the United States flag should receive no countenance on our part.

5. The Commander in Chief has been informed by an official of the Standard Oil Company at Shanghai that they will address a letter to the State Department requesting a relaxation of the rule. This will no doubt be referred to the Navy Department, and pending any decision in the matter, the existing rule will be observed until modified by the Navy Department.

JOSEPH STRAUSS

893.102 1c/21

The Secretary of the British Embassy (Craigie) to the Chief of the Division of Far Eastern Affairs, Department of State (MacMurray)

WASHINGTON, August 6, 1921.

DEAR MR. MACMURRAY: In confirmation of our conversation of yesterday in regard to the Itchang question and to the general situation on the Yangtse River, I write to inform you that, in the opinion

²¹ Not printed.

²² *Ante*, p. 519.

of the British Government, the most important point is that practical steps should be taken forthwith to provide for contingencies and that the Naval authorities of the principal Powers should concert and arrange for prompt naval action if, and when, required.

It is my understanding that the United States Naval authorities in those parts are already in possession of instructions which will enable them to concert with their other colleagues the measures necessary for the protection of foreign lives and property. You were good enough to say however that you would make further enquiry of the Navy Department and, should it appear desirable, suggest that further instructions should be sent in the sense proposed by the British Government.

I should be grateful if you would let me know in due course what action is taken in virtue of your proposed consultation with the Navy Department.

Very sincerely yours,

R. L. CRAIGIE

593.00/3984

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, August 22, 1921.

SIR: I have the honor to acknowledge, with thanks, your letter of July 27, 1921, enclosing a copy of a report dated June 7th from the Commander-in-Chief of the United States Asiatic Fleet, at Shanghai, China, with reference to the placing of armed guards on vessels operating on the Yangtze River.

In this connection, and with reference to previous letters on the same matter, I am transmitting for your information and such action as the situation requires, a copy of a despatch, No. 272 [273] of June 24, with enclosure, from the American Consulate General at Hankow,²³ relative to conditions on the Upper Yangtze River. I have the honor to invite your attention to the suggestion made in the paragraph which begins at the bottom of page 5 of the enclosure to the despatch from the Consulate General, namely, that naval convoys be provided for the protection of American chartered junks through danger zones in the upper reaches of the Yangtze river, and to ask whether it would be possible for the Yangtze patrol to put such a suggestion into effect.

I have [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

²³ Not printed.

893.102 Ic/23

The Secretary of the Navy (Denby) to the Secretary of State

6320-312

WASHINGTON, August 24, 1921.

SIR: I have the honor to acknowledge your letter of 20 August, 1921 (FE-),²⁴ relative to an informal letter received from the Secretary of the British Embassy by a member of the Division of Far Eastern Affairs, in which the former suggests that additional instructions be sent to the United States Naval authorities in the Yangtze River, with a view to providing for contingencies in the Yangtze Valley that might render desirable concerted action by the naval forces of the principal Powers, stating that it is his understanding that the United States Naval authorities in those ports are already in possession of instructions which will enable them to concert with their colleagues the measures necessary for the protection of foreign lives and property.

The situation in the Yangtze Valley is covered in a naval way by six patrol craft of the U.S. Navy and units from the British, Japanese, and French Navies. An additional patrol vessel has recently left the United States for Yangtze River work, and, upon arrival, will become the Flagship of Rear Admiral W. H. G. Bullard, U.S. Navy, now *en route* to the Asiatic Station and under orders as Commander Yangtze Patrol Force, U.S. Asiatic Fleet.

A working agreement exists among the naval units of the various Powers, with the probable exception of Japanese units, that contemplates concerted action to afford protection to the lives and, so far as conditions permit, to the property of foreigners resident within the immediate theatre of action of any of the gunboats operating in Yangtze waters. Foreign nationals seeking protection have to come within the limits prescribed by the gunboat in affording protection to its own nationals. When two or more gunboats of different Powers are in the same disturbed area, the gunboats act to protect the lives and property of all nationals, each gunboat primarily guarding the interests of its own nationals. When circumstances and time permit, it has been customary to defer extension of overt protection to foreign nationals until a written request from the foreign naval or consular authority in the region has been received.

The Department considers the situation, from the standpoint of the United States Navy, suitably covered as to co-operation with foreign naval units in the protection of the lives and property of foreign nationals.

Respectfully,

EDWIN DENBY

²⁴ Not printed.

893.00/4021

The Secretary of the Navy (Denby) to the Secretary of State

27403-340:5

WASHINGTON, September 2, 1921.

SIR: Referring to your letter of 22 August, 1921, (FE-893.00/3984) relative to the suggestion from the American Consulate General at Hankow, in which it is indicated that naval convoys are desired for the protection of American chartered junks through danger zones in the upper reaches of the Yangtze River, I have the honor to invite attention to a copy of a report from the Commander-in-Chief, U.S. Asiatic Fleet, herewith enclosed, in which he treats of the policy being followed in the conduct of naval operations in the Yangtze River.

In view of the statements contained in the accompanying report, and in the report dated 7 June, 1921,²⁵ which you acknowledge in the above cited letter, this Department, before issuing further instructions in the premises to the Commander-in-Chief, U.S. Asiatic Fleet, begs to be informed of the attitude of the Department of State toward the providing of naval escorts to vessels not entitled to fly the United States flag.

This Department approves the decision of the Commander-in-Chief, U.S. Asiatic Fleet, in not placing armed guards on board vessels not entitled to fly the United States flag. The providing of naval escorts for such vessels when carrying American cargo introduces a somewhat different question. Should the Department of State decide that the provision of such escorts may be considered legitimate under existing circumstances on the Yangtze River, it is pointed out that naval escorts can not be provided in all cases on account of the limited number of vessels available for such duty.

Respectfully,

EDWIN DENBY

[Enclosure—Extract]

The Commander in Chief of the Asiatic Fleet (Strauss) to the Chief of Naval Operations (Coontz)

01-ly

2105-14-21

SHANGHAI, July 2, 1921.

1. The Commander in Chief left Shanghai in the *Wilmington* on June 9th for a general investigating trip up the Yangtze River. . . .

5. The general disturbed conditions in China due to the lack of a strong central government are emphasized in the Yangtze Valley. The Department has been informed of the burning and looting of Ichang on June 11th and that of Wuchang, opposite Hankow, on June 7th. A general feeling of nervousness is apparent among foreign residents in the treaty ports of the Yangtze. The Com-

²⁵ *Ante*, p. 524.

mander in Chief believes that the apprehensions of the foreigners have considerable foundation and has instructed the Patrol Commander to keep his Flagship as much as possible at Hankow in order that he may be centrally located in the disturbed area. This and the distribution of the various vessels throughout the valley where trouble may most be expected will it is hoped provide a reasonable degree of safety for our citizens and their property.

6. The Department has been advised in a previous communication, dated 7 June 1921, of the arrangement made by the Patrol Commander during the past winter by which men were detached from vessels and placed as armed guards aboard junks carrying the freight of the Standard Oil Company. As soon as the Commander in Chief learned of this he directed that the practice cease. The Commander in Chief pointed out to the representatives of the Standard Oil Company the illegality of hoisting the U.S. Flag on foreign owned bottoms and I informed them that under the existing rules no protection would be offered such vessels.

7. Even were it legal to send armed guards aboard the freight junks the crews of our gunboats are too small to permit them being depleted for such a purpose. Nor would it be admissible to entrust enlisted men with such duty unsupervised by their commanding or other commissioned officer. The Commander in Chief still permits the guarding of regular steamers flying the U.S. Flag where they are apt to be threatened by bandits *en route* up or down the river. This he does with great reluctance on account of the inadvisability of weakening the vessels from which the men must be taken for the purpose. It is probable that the Department will receive requests from the Standard Oil people in the United States to continue the practice so unfortunately begun by the Patrol Commander last winter. For the reason set forth above the Commander in Chief strongly recommends that this be not done.

8. A copy of a general policy regarding the protection to be afforded by our river gunboats is herewith enclosed.

JOSEPH STRAUSS

[Subenclosure]

*The Commander in Chief of the Asiatic Fleet (Strauss) to the
Commander of the Yangtze Patrol (Wood)*

03-my

2165-6-21

SHANGHAI, July 3, 1921.

1. The Commander in Chief's policy with respect to the work of the Yangtze Patrol is as follows:

(a) The primary object of the patrol is to protect the lives and property of American citizens legitimately residing on Chinese terri-

tory in the Yangtze Valley at such places as are accessible to the vessels of the patrol.

(b) This protection will be by force wherever it is clearly apparent that the local Chinese authorities are failing to afford such protection. That is to say, where either the Chinese authorities themselves call on us to aid them, or, having failed to make a call, the danger to our people is imminent and undoubted. Of this latter the Patrol Commander or the Senior Officer Present must be the judge.

(c) In case of suspected danger, arrangements will be made by which an observer on shore, provided with rockets or other signal apparatus, may be placed so that in event of the danger becoming real, proper signals may be sent to the ship in order that the ship may make all preparations for meeting the emergency.

(d) Commanding Officers will keep in close touch with the Consul on shore or, in his absence, with reliable Americans, in order that they may be kept informed of the condition of affairs.

(e) Vessels of the patrol will be kept at disturbed points or where they may readily reach them.

(f) With the present force, care must be exercised that the meager landing force of each vessel be not weakened by detaching members of the crew to form armed guards for vessels legitimately flying the U.S. flag, unless such action is very necessary.

(g) No action which needlessly infringes on the neutrality of Chinese territory will be taken. Care must always be exercised to avoid wounding the national sensibilities of the Chinese.

(h) Vessels are entitled to fly the U.S. flag when they are duly registered U.S. merchant vessels, or are wholly owned by U.S. citizens, or U.S. citizens own a controlling interest in them. Such ownership must be authenticated by consular documents.

JOSEPH STRAUSS

893.00/4021

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, *October 18, 1921.*

SIR: I have the honor to refer to your letter of September 2, 1921, with which you enclosed a copy of a report received by you from the Commander-in-Chief, U.S. Asiatic Fleet, regarding the policy being followed by him in the conduct of naval operations in the Yangtze River. You state that you approve the decision of the Commander-in-Chief not to place armed guards on board vessels not entitled to fly the American flag but that the providing of naval

escorts for such vessels when carrying American cargoes introduces a somewhat different question; that should this Department decide that the providing of such escorts may be considered legitimate under existing circumstances on the Yangtze River, such escorts could not be provided in all cases on account of the limited number of vessels available for such duty, and you ask to be informed of the attitude of this Department on the subject.

The right of this Government to afford, through the use of American war vessels, protection to American "commerce" in Chinese waters open to foreign commerce, is specifically recognized by Article 9 of the Treaty of 1858 between the United States and China. It is conceivable that the affording of this protection to commerce may in many cases entail the furnishing of naval escorts to foreign vessels not entitled to fly the American flag, as for example, where the whole or a large part of the cargo of a foreign vessel is made up of American owned goods.

Since it is observed from your letter that owing to the limited number of vessels available for such duty it will not be possible in all cases to furnish escort to vessels carrying American owned goods, this Department would be willing to leave to the discretion of the Commander-in-Chief of the Fleet the question as to when and to what extent escorts should be furnished.

I am enclosing for your information and such action if any as you may deem it desirable to take, a copy of a letter dated October 10, 1921,²⁶ which the Department has received from Messrs. L. C. Gillespie and Sons of New York reporting the capture by rebel forces along the Yangtze River of three chartered junks with cargoes of wood oil valued at between \$75,000 and \$100,000.

I have [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

893.00/4109

The Acting Secretary of the Navy (Washington) to the Secretary of State

27403-340:5

WASHINGTON, October 25, 1921.

SIR: I have the honor to acknowledge your letter of 18 October, 1921, (So 893.00/4021) relative to the furnishing of naval escorts on foreign vessels in Chinese waters, and I beg to inform you that

²⁶ Not printed.

copies of the correspondence in the premises have been furnished to the Commander-in-Chief of the Asiatic Fleet with directions to be governed by the spirit of your letter hereby acknowledged.
Respectfully,

THOS. WASHINGTON

893.00/4163

The Vice Consul in Charge at Chungking (Bucknell) to the Secretary of State

No. 169

CHUNGKING, *November 2, 1921.*

[Received December 17.]

SIR: I have the honor to report that the Szechuan forces are reported to have been driven out of Hupeh territory and are now within their own borders. A lull in the fighting has occurred, but it is said that the Szechuanese are preparing to launch another offensive when the river falls.

General Yang Sen recently appointed Commander of the Second Army, seems to be a strong man, and very friendly to foreigners, and General Liu's position seems much stronger because of his support.

Although the merchant vessels are allowed to proceed up or down river, with only an occasional shot being fired at them, H.M.S. *Widgeon* and *Teal*, both have had quite a hot action when proceeding to Chungking.

The situation at present is much more quiet, but it is possible that if hostilities are resumed, that all river traffic may be again cut off.

Accompanied by Captain E. W. Hanson, of the U.S.S. *Monocacy* I called upon General Hsiang early in October, and protested most strongly against the firing on American vessels by his troops. He assured me that the firing was due to ignorance on the part of the Szechuan troops, and that they feared that the foreign vessels might be carrying troops. I assured him that American vessels were, and would continue to be neutral, and requested him to give stringent orders that they should not be fired on in the future. He requested that I instruct American vessels to fly a large white flag with the four characters in black [here follow four Chinese characters] "American merchant vessel", and informed me that he would wire stringent orders to his troops against firing on vessels bearing this flag.

There has been a great deal of talk about anti foreign feeling in Chungking, but I am of the opinion that the feeling is largely directed against the foreign firms whose ships have sunk junks. I should also think that the recent trouble in Chungking is due in a large measure to the efforts of General Tan Mou-hsin of the First Army to discredit General Liu Hsiang in the eyes of both the foreigners and of the Chinese.

I have [etc.]

HOWARD BUCKNELL, Jr.

893.00/4164

The Minister in China (Schurman) to the Secretary of State

No. 152

PEKING, November 8, 1921.

[Received December 17.]

SIR: I have the honor to refer to my despatch No. 58, dated October 4th, 1921,²⁷ on the subject of the interruption of traffic on the Upper Yangtze and enclosing copies of despatches from the American Consul General, Hankow, dated September 22nd, and September 30th, 1921.²⁷

In this connection there is enclosed in triplicate copy of a further despatch from the Consul General at Hankow, No. 288, dated October 28th, 1921, with enclosures.²⁷ The attention of the Department is called to the fact that the authorities of the Chinese Maritime Customs at Chungking and Hankow, as well as the Revenue Council at Peking, are unwilling to sanction the use of the American flag on Chinese-owned junks chartered by American firms as being contrary to Article IV of the Chungking Agreement between Great Britain and China (1890) by which the chartered junk traffic between Ichang and Chungking is governed. This article provides that the use of the British flag by vessels the property of Chinese is strictly prohibited. (See *Customs Treaties between China and Foreign Countries*, Vol. 1, page 319).

The instructions of the Department are requested as to whether or not the Legation should insist on the use of the American flag on chartered junks on the Upper Yangtze in view of the position taken by the Customs authorities.²⁸

I have [etc.]

JACOB GOULD SCHURMAN

²⁷ Not printed.

²⁸ Apparently no further instructions were given by the Department.

EFFORTS TO PREVENT RELAXATION OF THE AGREEMENT AMONG THE POWERS TO PROHIBIT THE EXPORTATION OF ARMS TO CHINA³⁰

893.113/139

The British Embassy to the Department of State

MEMORANDUM

His Majesty's Ambassador at Tokio has reported the transmission by the Japanese Government of a *note verbale*, which has no doubt been addressed equally to the representatives of Powers other than Great Britain, regarding the importation of arms into China.

This note states that some subjects of the Powers concerned seem to have acted in disregard of the arms agreement during recent political disturbances. It alludes in courteous language to the alleged fact that British Vickers Aeroplanes have been used for dropping bombs and reconnaissance and that H.M.G. had to interfere.

It states that the Italians have furnished arms to the Government of Chekiang and that the Italian Minister does not deny sales of arms in China. Also that American firms have delivered arms valued at \$1,000,000.

While the agreement has thus been violated and the Powers concerned seem to have taken no effective measures of control, Japanese merchants are being pressed by the Chinese to deliver goods already contracted for and the return of money paid in advance is demanded under threat of legal proceedings. The Japanese Government find it very difficult to restrain them from execution of valid contracts and settling matter at their own risk.

The Japanese Government have been awaiting the result of the identic telegram despatched by the Ministers at Peking to their Governments last September³¹ but they fear that this step will only end in condoning the Italian breach of faith.

[WASHINGTON,] *January 3, 1921.*

³⁰ For previous correspondence concerning arms embargo, see *Foreign Relations*, 1920, vol. I, pp. 738 ff.

³¹ See telegram no. 267, Sept. 23, 1920, from the Minister in China, *ibid.*, p. 749.

893.113/87

The Ambassador in Italy (Johnson) to the Acting Secretary of State

No. 262

ROME, January 5, 1921.

[Received January 21.]

SIR: With further reference to my despatch No. 247 of December 20th last ³² in connection with the reported transactions in arms by Italy in China contrary to the arms embargo, I have the honor to enclose herewith copy and translation of a communication received from the Japanese Embassy in Rome concerning the declarations on the subject made by the Japanese Ambassador, acting under instructions from the Imperial Japanese Government, to the Italian Minister for Foreign Affairs. This communication was received from the Japanese Embassy in exchange for a copy of the Note addressed by this Embassy to the Foreign Office on the subject ³²—which latter copy was requested by the Japanese Embassy.

I have [etc.]

ROBERT UNDERWOOD JOHNSON

[Enclosure—Translation]

The Japanese Embassy in Italy to the American Embassy

The Japanese Embassy presents its compliments to the Embassy of the United States of America and has the honor hereby to inform the latter of the general trend of the communication made verbally by the Japanese Ambassador to the Italian Minister of Foreign Affairs during an interview which took place on the 23d instant with regard to the prohibition to import arms, etc. into China:

“After having referred to the *Note Verbale* of December 18, 1919, addressed by the Japanese Embassy to the Italian Ministry for Foreign Affairs relative to the prohibition to supply arms, etc. to China, and after having pointed out the fact that, on the one hand, according to the statement of the Italian Legation at Peking the delivery of arms, ammunition, and other war material deposited at Shanhaikwan would be forbidden, but that such embargo would be raised if, in the judgment of the Italian Legation, the political

³² Not printed; see telegram no. 479, Dec. 20, 1920, from the Ambassador in Italy, *ibid.*, p. 754.

conditions of China should permit, and that on the other hand there was a rumor of traffic in the aforesaid goods between the Italians and the Chinese at Shanghai—a rumor which the Italian Authorities in China were reported to have thought necessary to deny,—the Japanese Ambassador, in conformity with the instructions of his Government, requested the Italian Minister for Foreign Affairs to give assurances concerning the participation of the Italian Government in the prohibition to import arms, ammunition and war material into China, and not to raise such embargo until after a decision to be made by common agreement between the interested powers.”

ROME, *December 30, 1920.*

693.119/379 : Telegram

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

WASHINGTON, *January 7, 1921—5 p.m.*

9. The Department is informed by a telegram from the Legation at Peking that it learns from the British Legation that the Japanese Foreign Office has sent a note to the British Embassy at Tokyo outlining alleged violations of Chinese arms embargo by Great Britain, United States, and Italy. As regards this country you may inform British Foreign Office that all applications for permission to ship explosives and munitions to China have been very carefully watched and that the Department is confident that no permits have been issued except for usual small consignments of sporting arms, sporting ammunition and several shipments of industrial blasting explosives. You may state to the Foreign Office that in considering this question it has to be borne in mind that our control over arms shipments to China has been exercised under war powers which may at any time be withdrawn by Congress. Furthermore information thus far available to the Department scarcely warrants such a confidence in the practical efficacy of the embargo as would justify it in asking Congress for a continuance of the special powers by which we have thus far imposed restrictions upon our manufacturers. The Embassy at Tokyo is being instructed to consult with the British Embassy and ascertain whether such charges have been made and whether the Japanese Government has suggested termination of embargo.

DAVIS

893.113/90

The Chief of the Division of Far Eastern Affairs, Department of State (MacMurray) to the British Chargé (Craigie)

WASHINGTON, January 18, 1921.

MY DEAR CRAIGIE: By way of reply to your note of yesterday,³⁴ I am venturing to submit to you herewith a somewhat fuller statement of the facts in regard to the China Arms Embargo (with particular reference to airplanes) than is contained in the memorandum which you so kindly submitted for my revision. From this somewhat more detailed statement, I hope you can take what you feel necessary in order to lay our views before your Government; and although this is not the manner of comment that you suggested, I hope it will prove as convenient for your purpose.

In addition to the bare recital of the facts as detailed in the enclosed memorandum, I should perhaps say that in the event of any contract being made by an American firm for the supply of airplanes to China, this Government would of course feel obligated to scrutinize the contract itself and the contemplated financial arrangement thereunder, with a view to satisfying itself that the planes were not in fact intended for military uses, and that the arrangements for purchase did not involve any infringement upon the field of activities reserved to the Consortium.

I am returning herewith a copy of the statement which you enclosed with your letter.³⁴

Yours sincerely,

J. V. A. MACMURRAY

[Enclosure]

MEMORANDUM

On May 5, 1919, the diplomatic representative of the United States Government at Peking joined with the diplomatic representatives of the other Allied and Associated Governments including Great Britain, France and Japan in a declaration to the Chinese Government that they would restrict shipments of arms and munitions of war to China until it should become apparent that such shipments would not be used merely to continue civil strife in China.³⁵

This Government construed this undertaking to cover all raw materials and machinery that might be used in the manufacture of

³⁴ Not printed.

³⁵ See *Foreign Relations*, 1919, vol. I, p. 670.

munitions of war as also such instruments as airplanes which would readily lend themselves to a use wholly military. Under this interpretation of the embargo, airplanes were listed by the War Trade Board as requiring an export license for shipment to China, and no such licenses were in fact issued by it.

On October 1, 1919,—five months later—Messrs. Vickers Limited, a British company, signed a contract with the Ministry of War of the Chinese Government for the supply of commercial airplanes and the construction of the necessary airdromes, hangars, et cetera, in connection therewith. This contract called for a loan of £1,803,300 at 8%; and in the London papers October 14, 1919, was advertised an issue to the public of Chinese Treasury notes securing this loan, under a license of the British Treasury, dated September 18, 1919.

Upon learning the details of the Vickers contract, the Department of State on November 17, 1919, telegraphed to the American Embassy at London³⁶ informing it of the Vickers contract and directing it to make inquiry of the British Government as to the interpretation which it had placed upon the embargo of arms to China in view of the Vickers contract.

In reply to this inquiry the American Embassy at London was informed by the British Foreign Office that the British Government had approved of the contract, inasmuch as it was for commercial aeronautical material wholly unsuited for any military purposes.³⁷ As a matter of fact it appears that some of the airplanes which were delivered to the Chinese Ministry of War under this contract were actually used in the fighting which occurred in the vicinity of Peking during the months of July and August, 1920, between the military forces of the so-called Anfu and Chihli factions, and that General Chang Tso-lin, Military Governor of Manchuria, subsequently captured them and carried them away from Peking.

It appears that in August, 1920, certain American interests entered into negotiations with the Chinese Ministry of the Navy for the sale of a quantity of airplanes. No encouragement was given by this Government to these negotiations, which it understood were never consummated by reason of certain difficulties between the American company interested and the persons acting in its behalf in China; and upon the breakdown of these negotiations no effort was made by this Government to bring to the attention of other American manufacturers the opportunity for obtaining a similar contract. It is further understood that it was this same contract which was thereafter offered to and accepted by the Handley-Page firm, through

³⁶ *Foreign Relations*, 1919, vol. I, p. 672.

³⁷ See telegram no. 3430, Nov. 22, 1919, from the Ambassador in Great Britain, *ibid.*, p. 673.

the action of Captain I. V. Gillis, formerly Naval Attaché at Peking, who had been one of those acting in behalf of the American firm to whom the contract had been offered in the first instance.

On September 17, 1920, just one year after the approval by the British Government of the Vickers contract, in consideration of the fact that other Governments had permitted their nationals to enter into contracts with the Chinese for commercial airplanes, this Government instructed its diplomatic representative in Peking³⁸ that it no longer felt warranted in interposing objections to its nationals doing likewise in case the airplanes were for strictly commercial use.

893.113/83 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 20, 1921—6 p.m.

[Received January 20—2:40 p.m.]

43. Your 24, January 15, 1 p.m.³⁹ Note November 23 [22] states:

“Foreign Office heard that Canton Arsenal then under control Kwangsi gave order to American firm for certain machinery for the manufacture of cartridges and guns. Over \$600,000 of stipulated price already having been paid. Foreign Office heard Kwangtung now desires to secure machinery, hence if machinery fell in hands Kwangtung Government act would certainly be obstacle to peace between North and South as well as disregard of usual spirit of helpfulness manifested by friendly nations toward China. British Legation had been requested telegraph Hong Kong [to] devise means detain machinery. American Legation requested to order American firm not deliver goods to Kwangtung Government.”

Request has been three times reiterated orally.

While Legation may as suggested by the Department reply that Davis Company not an American firm, possible Chinese will take the position that shipment should have been held up in the United States whatever the nationality of consignee in Canton; furthermore I understand Davis Company is virtually American owned. Head office Singer Building, New York, and is in these transactions interested with Rabbitt Engineering Corporation and Robinson and Cole. British and Japanese Ministers have made inquiries and representations to me regarding *Woudrichem* shipments pointing out that with materials thus imported nine American workmen are completing Remington Canton Arsenal. Military attaché states information at

³⁸ *Ibid.*, 1920, vol. I, p. 748.

³⁹ Not printed.

hand tends to show recent military operations between Kwangtung and Kwangsi parties were largely made possible by delivery of American war materials. Please instruct again urgently.

[CRANE]

893.113/86 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 21, 1921—6 p.m.

[Received January 22—7 p.m.]

48. My 43, January 20, 6 p.m. Foreign Minister again makes oral representations, states Premier very concerned and calls attention to employment Americans in repair of arsenal.

Following text of note dated January 20th :

“ I have the honor to refer to a memorandum sent by this Ministry to the American Legation under date of November 22nd, 1920,⁴⁰ referring to the contemplated action of the Province of Kwangtung in taking over from the Kwangtung Arsenal machinery for the manufacture of arms and munitions purchased by it from the American firm of Davis and Company manufacturer. In this memorandum it is requested that the Legation instruct the said American merchants not to turn over this machinery to the Province of Kwangtung.

This Ministry is now in receipt of a trustworthy report to the effect that after this machinery was transported to and admitted into the Province of Kwangtung although the Province of Kwangtung made preliminary payment of bargain money to the extent of \$500,000, the machinery in question is still temporarily stored in Shameen in the Paik'o Godown and has not been handed over to the Province of Kwangtung. The report further states that the original contract concluded in connection with this transaction did not include machinery for the manufacture of arms and ammunition and that the articles now in interest do not agree with the list attached to the contract. It is perfectly evident therefore that the American consul has ample authority to regulate the transaction and the Ministry is accordingly again addressing this request to the American Minister asking that telegraphic instructions be sent to the American consul at Canton directing him to devise some method of detaining the machinery in question and on no condition to turn it over to the Kwangtung Government. The Chinese Government will hereafter satisfactorily adjust any points in connection with this procedure that may require settlement. The favor of a reply is requested.”

CRANE

⁴⁰ See telegram no. 43, Jan. 20, 1921, *supra*.

893.113/85: Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, *January 22, 1921—noon.*

[Received January 22—10:21 a.m.]

50. My 43, January 20, 6 p.m. Consul Canton reports that Davis Company turned over arsenal engineering works to the James A. Rabbitt Corporation, New York, who are now retained as consulting engineers.

Consul Hong Kong reports that Davis and Company incorporated Hong Kong August 30, 1918, and maintain office there. Officials of the company are American citizens. Managing director as well as chief and controlling shareholder is Paul Davis, American citizen by birth, and widow American citizen. In interview with Premier today he stated that an essential portion of arsenal equipment imported by American Company into Canton is now stored in Godowns, Shameen, and he requested that it be not delivered to Kuangtung authorities who could thus renew warfare. He said that Central Government would take over purchase, taking delivery after cancellation of arms embargo. He stated emphatically his intention to unite country without resorting to fighting and asked cooperation of American Government.

Request instruction as to action upon the Premier's request.

CRANE

893.113/105

The Ambassador in Italy (Johnson) to the Acting Secretary of State

No. 279

ROME, *January 25, 1921.*

[Received February 17.]

SIR: In connection with my despatches Nos. 247⁴¹ and 262⁴² of December 20, 1920, and January 5, 1921, respectively, I have the honor to enclose herewith copy and translation of a *Note Verbale* (No. 4211/13) dated January 22, 1921, just received from the Italian Foreign Office, relative to the sale in China of arms and munitions from Italian sources.

I have [etc.]

ROBERT UNDERWOOD JOHNSON

⁴¹ Not printed.

⁴² *Ante*, p. 535.

[Enclosure—Translation]

The Italian Ministry of Foreign Affairs to the American Embassy

NOTE VERBALE

In reply to the Note of the Embassy of the United States dated December 20th last, No. 243,⁴³ the Royal Ministry of Foreign Affairs has the honor to state that if Italian arms were furnished to Chinese buyers, it was done in execution of contracts made prior to May 1919, and for which the Italian Government had made explicit reservation in adhering to the agreement signed at Peking the 26th of April, 1919, by the representatives of the Allied and Neutral Powers.⁴⁴

In answer to an inquiry newly addressed to the Royal Legation of Italy in Peking, it confirms that no other sale in China of arms or munitions from Italian sources has been made on contracts of a later period.

ROME, *January 22, 1921.*

893.113/103

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

[Extract]

No. 4130

LONDON, *January 27, 1921.*

[Received February 10.]

SIR: Referring to the Department's telegram No. 9 of January 7, 5 p.m., concerning the Chinese Arms Embargo, and as stated in my telegram of today's date,⁴⁵ I have the honor to enclose a copy of a Note from the Foreign Office dated the 22nd instant, received on the 24th, in reply to the Embassy's Memorandum of the 10th instant,⁴⁶ which was based upon the Department's telegraphic instructions. . . .

I have [etc.]

For the Ambassador:

J. BUTLER WRIGHT

Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Davis)

No. F. 120/2/10

LONDON, *22 January, 1921.*

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of Your Excellency's memorandum No. 20 of January 10th, 1921, on the subject of the arms embargo for China.

⁴³ Not printed.

⁴⁴ See *Foreign Relations*, 1919, vol. I, pp. 669-670.

⁴⁵ Latter not printed.

2. Your Excellency alludes to a Note addressed to His Majesty's Ambassador at Tokio by the Japanese Minister for Foreign Affairs, outlining certain alleged violations of the embargo by the United States, Italy and Great Britain.

3. I note with pleasure the statements contained in Your Excellency's note as to the careful watch which has been kept by the United States Government on all applications for permission to ship explosives and munitions to China, and as to the confidence of the Department of State that no permits have been issued except for the usual small consignments of sporting arms and ammunition, and certain shipments of blasting explosives for industrial purposes. His Majesty's Government fully appreciate the cordial co-operation hitherto afforded by the United States Government to ensure the success of the arms embargo policy.

4. As regards the alleged violation of the embargo by Great Britain, I can only presume that this refers to the agreement between Messrs. Vickers, Limited, and the Chinese Government, the existence of which is doubtless known to Your Excellency.

5. His Majesty's Government desire therefore to point out that the supply of aeroplanes as provided for in this contract constitutes no violation of the arms embargo, which relates only to arms and munitions of war and material destined exclusively for their manufacture. This aspect was carefully considered at the time, and the transaction was only approved on the definite assurance that the machines were solely for commercial purposes, and were incapable of conversion for military use. These assurances were accepted as satisfactory by His Majesty's Government, and also by the Japanese Government, who made enquiries on the subject. It is true that attempts were at one time made to divert these aeroplanes for military purposes but immediate action was taken by His Majesty's Government to prevent such misuse of the machines and has, they believe, proved effective.

6. Commercial aeroplanes are therefore in quite a different category from arms, but nevertheless, in the light of subsequent experience and in view of the signature of the Consortium Agreement, His Majesty's Government feel strongly that it would be inadvisable to encourage China to devote her resources or her credit to obtaining further supplies of aircraft until more essential national needs have been fulfilled the relative urgency of which will be, no doubt, considered by the Consortium. While it would not be possible for His Majesty's Government to take steps to prevent the execution of the Vickers contract, which was financed by a loan actually floated in this country, they would be prepared, having regard to present developments, to come to an agreement with the other Powers concerned for placing an embargo on any further

supplies of aircraft other than machines already contracted for. This agreement would be similar in effect to the Arms Embargo Agreement,⁴⁶ although the reason for it would, as indicated above, be different in that it would be based rather on consideration of financial policy arising out of the Consortium than on strictly military grounds.

7. In this connection, I desire to mention to Your Excellency that in December 1920 a Peking agent of another British firm concluded, entirely unknown to His Majesty's Legation, an agreement for the supply of aircraft to the Government of China. One of the clauses of that agreement provided for the communication of its text to His Majesty's Government by the Wai Chiaolu. His Majesty's Minister at Peking has, however, been instructed by telegraph to refuse to accept the document, and the firm has been informed that the transaction cannot be countenanced by His Majesty's Government. His Majesty's Government are resolved to maintain this attitude so long as the co-operation of other Governments in this policy is forthcoming.

8. As regards the export to China of arms and munitions, the supervision exercised in this country has been no less strict than that obtaining in the United States of America. All applications for licenses, save only for reasonably small consignments of *bona fide* sporting arms and ammunition, have been, and continue to be, steadily refused.

9. In the present condition of internal turmoil in China, and in the light of recent developments, His Majesty's Government are more than ever convinced of the vital necessity in the interests of peace and union in that distracted country, of whole-hearted adherence to the policy of the arms embargo, and I sincerely trust that the United States Government will continue to employ every means in their power to secure its observance by their nationals, with a view to maintain the co-operation of other countries concerned.

I have [etc.]

V. WELLESLEY
(For the Secretary of State)

893.113/95: Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, January 28, 1921—5 p.m.

46. Department's 43, January 27, 6 p.m.⁴⁷

Customs reports *Woudrichem* cleared from New York August 12th for Shanghai, Hongkong, Canton and Manila via Norfolk with

⁴⁶ *Foreign Relations*, 1919, vol. I, p. 670.

⁴⁷ Not printed.

general cargo including 52 packages seaplanes consigned to Gunn, Canton, a quantity of machine tools and fittings consigned to Kwan Nam Engine and Shipbuilding Company, Canton, and took on in addition at Norfolk 47 packages pipes and fittings, 77 packages of generator parts and equipments, 50 packages of boiler parts consigned to Kwan Nam Engine and Shipbuilding Company, Canton. There appears to have been no indication that machinery was for other than commercial uses and shipment was therefore permitted under Export License R.A.C. 77, which is the form used for all goods exportation of which is not specifically restricted.

COLBY

893.113/97

Memorandum by Mr. Nelson T. Johnson, Division of Far Eastern Affairs, Department of State

[WASHINGTON,] *February 2, 1921.*

Monday morning January 31 Mr. Craigie called at the Division to discuss with Mr. MacMurray the question of the Handley-Page Airplane Contract. Mr. Craigie stated that the British Government based their refusal to support this contract entirely upon the ground that it contravened paragraph 2 of the Consortium Agreement,⁴⁸ in that the terms of financing under the Handley-Page Contract called for an issue for subscriptions by the public on Bearer Chinese Government Treasury bills of varying denominations. The British Government was not opposing the contract because it contravened the Arms Embargo.

Mr. MacMurray stated that the point raised by Mr. Craigie was a very real difficulty in that it was hard to determine when terms of financing such as those provided for in the Handley-Page Contract, contravened the terms of the Consortium Agreement.

Mr. Craigie said that his Government had decided that the Handley-Page Contract did indeed contravene the Consortium Agreement and he hoped that we would find ourselves of like opinion, in view of the fact that both the British and American Governments were earnestly desirous of seeing the Consortium Agreement carried into effect and any divergence of opinion on this point would make it increasingly difficult to carry on. The British Government were having difficulty with British firms in this matter.

Mr. MacMurray stated that we were quite aware of the need for agreement in this matter but that we were somewhat at a loss to understand the policy of the British Government which did not appear to be consistent in that the British Government had approved

⁴⁸ *Foreign Relations, 1920, vol. I, p. 576.*

of the terms of the Vickers Loan,⁴⁹ which had been approved and advertised on the market in London in October 1919, only five months after the British Government had approved the preliminary Consortium Agreement at Paris of May 1919.⁵⁰ The Marconi Contract⁵¹ for wireless equipment would appear to be another contract financed in the same way which had been approved by the British Government on May 24, 1919, shortly after the initialling by the British representatives of the preliminary Consortium Agreement of Paris and long after the several Governments were committed to the policies of the Consortium. It was apparent from this that the British Government had not always considered this method of financing contrary to the spirit and letter of the Consortium undertaking. Mr. MacMurray informed Mr. Craigie that we had instructed our Legation at Peking to take no action whatsoever in the matter of obtaining this contract for American interests, until all documents in the matter had been submitted to the Department in order that it might be determined whether or not the contract conformed with the Consortium Agreement. Mr. MacMurray agreed with Mr. Craigie that it was highly desirable that our two Governments come to an agreement as to what does or does not conform with paragraph 2 of the Consortium Agreement, inasmuch as we, for our own part, foresee much difficulty with American manufacturers if we decide that American manufacturers may not receive a promissory note of the Chinese Government in payment for goods sold.

Mr. Craigie stated that he would bring these views to the attention of his own Government to the end that we might come to some agreement as to the interpretation of the Consortium Agreement in these matters.

N[ELSON] T. J[OHNSON]

893.113/109

*Memorandum by the Chief of the Division of Far Eastern Affairs,
Department of State (MacMurray)*

[WASHINGTON,] *February 23, 1921.*

Memorandum of a Conversation between Mr. Craigie of the British Embassy and Mr. MacMurray, Present: Mr. Lockhart.

Mr. Craigie said that he had called to discuss two questions, 1st, that of the Handley-Page Contract, and, 2nd, that of the Arms "Embargo." He stated that the British Government's principal ob-

⁴⁹ See enclosure to note of Jan. 18 to the British Chargé, p. 537.

⁵⁰ *Foreign Relations*, 1919, vol. I, p. 439.

⁵¹ For pertinent clauses of the agreement, see footnote 5, p. 408.

jection to the Handley-Page Contract, and one of the prime reasons for its cancellation, was that it seemed a useless and profligate expenditure of money on the part of the Chinese Government. As a secondary consideration, it seemed to violate at least the principles involved in the Consortium. He emphasized the altruistic motives which prompted the British Government to cancel the Contract and deplored the fact that Americans were contemplating taking it over. Mr. MacMurray replied that the Department had no definite or recent information indicating that any American firm was considering this proposition. Mr. Craigie stated that if American and British firms should continue to get such contracts the usefulness of the Consortium, which had been mainly sponsored by the United States and Great Britain, would be seriously impaired, if not entirely destroyed. He seemed particularly anxious that some scheme of Co-operation between Great Britain and the United States should be evolved by which competition for contracts and concessions in China would be reduced to a minimum and he seemed to think that a firm and inflexible observance of the Consortium Agreement was the proper formula. Mr. MacMurray pointed out that many "border line" cases would undoubtedly arise under the Consortium and that the Handley-Page Contract seemed to come within that category. A discussion of the convertibility of commercial airplanes into military planes took place and Mr. Craigie stated that when certain Chinese factions endeavored to convert commercial planes imported into China under the Vickers Contract to military uses during the recent trouble in Peking, the British Legation took the necessary steps to prevent such use of the planes. In discussing the Consortium question Mr. MacMurray called Mr. Craigie's attention to the action of the British Government in giving its support to the Vickers Contract and in acquiescing in the public flotation of bonds in England to finance the contract, which was in violation of the construction which the British Gov't now seems disposed to place upon the Consortium Agreement. Mr. Craigie was not in position to argue this point. He asked whether this Government would support the British Government in its attitude on the question of withholding support from contracts which involve useless expenditures by China, such as commercial aircraft contracts. Mr. MacMurray subsequently, and after talking with Ambassador Morris, informed Mr. Craigie that the Department on the eve of a new Administration would not be disposed to fix a policy in this respect, as it might be a source of embarrassment to the incoming administration.

The question of the arms agreement was then discussed and Mr. Craigie read excerpts from reports which the Embassy had received from Peking on the subject and also parts of the note, dated

January 22, 1921, to this Government from the British Government⁵² with reference to the matter. Mr. Craigie stated that the British Government has exerted all possible efforts to prevent violations of the Arms Agreement and he said he doubted if there had been many violations on the part of the Japanese. He referred to the British Government's protest to the Italian Government on alleged violations and of the Japanese Government's note to the British Government on the subject of the embargo, whereupon Mr. MacMurray remarked that it seemed rather odd that the Japanese Government did not send a note to this Government on the embargo at the same time at which it sent one to the British Government. Mr. Craigie proposed that his Embassy send a copy of the Japanese note to the Department, with the British Government's reply, and that this Government then address to the Japanese Government a note in substance similar to the British note. Mr. MacMurray said that this would be given careful consideration if copies of the notes should be sent to the Department by the British Embassy.

Mr. Craigie stated that his Government evidently felt that there was lukewarmness on the part of this Government towards the embargo. Mr. MacMurray assured him that there was no lukewarmness but a well grounded fear that Congress might soon abrogate the powers under which this Government was able to adhere to the Agreement. He assured Mr. Craigie that the Department would make every effort to have these powers preserved in some form, but he could not predict with what success the Department would meet. He explained that efforts to perpetuate the existing powers had already been made, but without success. Mr. Craigie referred several times to the importation of American airplanes at Canton and deprecated the fact that some of the planes seem to have been used for military purposes. His Government is extremely anxious to keep the embargo in force as long as possible and urges this Government to co-operate to that end.

MACM[URRAY]

893.113/108

The Secretary of the British Embassy (Craigie) to the Chief of the Division of Far Eastern Affairs, Department of State (MacMurray)

WASHINGTON, March 1, 1921.

MY DEAR MACMURRAY: With reference to our conversation on the 23rd instant, I find on inquiry that the Japanese proposals to us for a relaxation of the arms embargo were communicated to the State

⁵² *Ante*, p. 542.

Department in a Note from this Embassy No. 88 dated February 5th 1920,⁵³ and in a Memorandum dated 3rd. January 1921.⁵⁴

As regards the suggestion that the Vickers' contract constituted a violation of the arms embargo it may perhaps be as well for me to recapitulate here what I mentioned verbally. As stated in the contract itself, it is for the provision of a "commercial type" of aeroplane. The contract was signed with the duly authorized representative of the Chinese Government and not with the Ministry of War, and the mere fact that some of the machines were seized during the fighting round Peking last summer by certain Chinese generals who have since proved incapable of using them, constitutes no evasion of the arms embargo. Sir Beilby Alston reported last December that in point of fact only one Handley Page machine had been used in the fighting. This was due to the action of an intoxicated Swiss mechanic who, alone of the Company's employes, ignored the instructions of the British Legation. He appears to have been engaged in bomb dropping and was immediately dismissed in consequence. No British machines have been used for reconnaissance purposes and, with this one exception, no British machine had, up to last December, been used for military purposes at all. Sir Beilby Alston considers that this is a proof of the efficiency of the drastic measures which have been taken by the British authorities.

In this connection it is worthy of note that, according to information received from His Majesty's Legation at Peking, American aeroplanes were actually used in the fighting in South China, and on at least one occasion were employed in dropping bombs at Canton.

In the Note from this Embassy No. 123 of February 25th 1920,⁵⁵ we notified the State Department that His Majesty's Government did not consider that aircraft fell within the scope of the Arms Traffic Convention,⁵⁶ unless fitted or supplied with guns or bombs, bombing apparatus or ammunition. From that expression of view the United States Government have never, so far as we are aware, recorded their dissent, and though it was adopted by His Majesty's Government quite independently of any question of the arms embargo in China, yet its bearing upon the point under discussion is evident.

The above does, I think, clearly demonstrate that the Vickers' contract cannot in any sense be regarded as a breach of the embargo. As I pointed out in the course of our conversation, it is for considerations based rather on Consortium than on embargo grounds that His Majesty's Government have refused to countenance the recently concluded Handley-Page contract.

⁵³ *Foreign Relations*, 1920, vol. I, p. 738.

⁵⁴ *Ante*, p. 534.

⁵⁵ *Foreign Relations*, 1920, vol. I, p. 204.

⁵⁶ *Ibid.*, p. 180.

Sir Auckland Geddes⁵⁷ has despatched a telegram designed to correct the impression which appears to prevail in London on the subject of the lukewarmness of the American Government in regard to the China arms embargo policy and explaining the difficulties with which they are confronted as regards the passage . . . of legislation for the purpose of continuing the existing prohibition of the export of war material to China.

Believe me [etc.]

R. L. CRAIGIE

893.113/118

The British Ambassador (Geddes) to the Secretary of State

No. 218

MEMORANDUM

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and has the honour, on instructions from his Government, to revert to the subject of the embargo on the importation of arms into China. On this subject, as Mr. Hughes is no doubt aware, numerous communications both written and verbal have recently passed between His Majesty's Embassy and the State Department, notably on January 3rd last in an interview between Sir Auckland Geddes and the Acting Secretary of State, and more recently in an interview between the First Secretary of the Embassy and the Head of the Far Eastern Division of the State Department.

Sir Auckland Geddes has now been advised that the Japanese Government a few weeks ago addressed to His Majesty's Ambassador at Tokio a note in which, while recognising that there is at present no prospect of a union between North and South China, they once more urge the difficulty of their own position *vis-à-vis* those Japanese merchants who are desirous of securing, or of carrying out, contracts for the supply of arms or munitions to China.

The Imperial Japanese Government claim that the difficulty of their position is enhanced by alleged sales by Americans of machinery for manufacturing arms to the Canton Government and by the Vickers contract for the supply of commercial aeroplanes, as well as by rumours of a contract entered into with the Handley Page Company for the supply of seaplanes.

This last contract, as the United States Government are aware, His Majesty's Government have hitherto refused to countenance on considerations connected with the Consortium rather than the Arms Embargo. As regards the Vickers aeroplanes, the Japanese Government, while accepting the assurances given by His Majesty's Am-

⁵⁷ British Ambassador at Washington.

bassador at Tokio after full investigation of the facts, that these aeroplanes were not used in the fighting in China last summer, refer to a rumour that the Chinese Bureau of Aviation have reported that the machines can easily be converted to warlike purposes and ask that the question of whether or not such aeroplanes are to be classed as "arms" should be reconsidered.

On this point, although in a different connexion and without any direct bearing on the question of the Chinese Embargo, His Majesty's Government have already made known their views to the United States Government in the note, No. 123, which His Majesty's Chargé d'Affaires had the honour to address to the Secretary of State on February 25th, 1920.⁵⁸ From these views the United States Government have never, so far as Sir Auckland Geddes is aware, indicated dissent.

In bringing this information to the notice of the United States Government, His Majesty's Ambassador is instructed to state that, in the event of their deciding to take any action at Tokio, with a view to preventing any relaxation of the embargo by the Japanese Government, there is no objection on the part of His Majesty's Government to the source of their information being disclosed by the United States Government to the Government of Japan. Should the United States Government wish to act in this matter conjointly with His Majesty's Government, Sir Auckland Geddes would suggest that it should be left to the discretion of the two Ambassadors at Tokio to determine the opportune moment for making representations.

WASHINGTON, *March 14, 1921.*

693.119/444A

*The Secretary of State to the Chairman of the Senate Committee
on Foreign Relations (Lodge)*

WASHINGTON, *March 14, 1921.*

SIR: In view of the long continued civil strife in China, the Powers allied and associated in the War, and also certain of the neutral Powers, mutually agreed, through their diplomatic representatives in Peking, in May, 1919, to restrict shipments from their respective countries to China of arms and munitions of war, and material destined exclusively for their manufacture, until the establishment of a government whose authority should be recognized throughout the whole country. The Powers thus cooperating were

⁵⁸ *Foreign Relations*, 1920, vol. I, p. 204.

the United States, Great Britain, France, Japan, Spain, Portugal, Russia, Brazil, The Netherlands, Denmark, Belgium and Italy. The purport of this understanding was to put into effect internationally, as regards China, a policy identical with that which the United States has adopted in the past in connection with civil disturbances in countries in Latin America, as set forth in Public Resolution No. 22, of March 14, 1912 (37 Stat., page 630). This Government was enabled to exercise the control over the export of arms and munitions to China, in pursuance of the policy thus adopted, on the basis of the provisions of the Espionage Act of June 15, 1917,⁵⁹ as enforced by the War Trade Board.

By the joint resolution approved March 3, 1921,⁶⁰ those provisions of the Espionage Act of June 15, 1917, providing for the control of exports, were repealed. The Department of State was thus deprived of any legal authority by which it could control shipment of arms and thereby cooperate with the other interested Powers in restricting shipments of arms used to promote and continue civil strife in China. It is believed that conditions in China do not at the present time warrant any change in this policy, and I therefore have the honor to renew the request contained in a letter addressed to you by Secretary Lansing under date of December 31, 1919,⁶¹—namely, that Public Resolution No. 22, of March 14, 1912 (37 Stat., page 630) be amended by striking out the limiting word “American” in the first line, or by such other means as you in your discretion may consider adequate, to enable this Government to continue its cooperation with the other Powers in a policy which it believes necessary under existing circumstances.

I have [etc.]

CHARLES E. HUGHES

893.113/122a : Telegram

*The Secretary of State to the Chargé in Japan (Bell)*⁶²

WASHINGTON, March 19, 1921—6 p.m.

49. A joint resolution of Congress approved March 3, 1921,⁶⁰ repealing certain sections of the Espionage Act of June 15, 1917,⁵⁹ has deprived this Government of any legal basis under which it can control shipments of arms and munitions to China as provided for in the joint declaration made on May 5, 1919 by the diplomatic

⁵⁹ 40 Stat. 217.

⁶⁰ 41 Stat. 1359.

⁶¹ Not printed.

⁶² First paragraph, with slight omission, sent also to the representatives in Belgium, Brazil, Denmark, France, Great Britain, Italy, Portugal, Spain, and the Netherlands, with instructions to “bring the above to the attention of the Government to which you are accredited.” (File no. 893.113/122b, c.)

representatives of Great Britain, France, Italy, Spain, The Netherlands, Denmark, Belgium, Portugal, Brazil and Japan.⁶³ This Government has not changed its policy in this regard however and is seeking from Congress legislation necessary to enable it to continue control over shipments of arms to China and in the meantime will refuse to support any efforts on the part of American citizens to ship or sell arms to China. You will bring the above to the attention of the Japanese Foreign Office for its confidential information and express this Government's hope that nothing will be done to change the present policy of the Powers in this matter.

You should add that this Government has been informed by the British Government of the receipt by its Embassy at Tokyo of a note from the Japanese Government urging the difficulty of the Japanese Government *vis-à-vis* Japanese merchants desirous of securing or of carrying out contracts for the supplying of arms or munitions to China and claiming that the position of the Japanese Government in this matter has been made more difficult by alleged sales to the Canton Government by Americans of machinery for manufacturing arms. You may inform the Japanese Foreign Office that investigation shows that certain machinery which appears to have arrived at Canton and to have been utilized at the Canton Arsenal left the United States consigned to a Chinese ship building concern at Canton and there was no indication that it was destined for the manufacture of arms and munitions of war covered by the arms embargo. You may add that the Department has been subjected to no little pressure from American merchants because of alleged violations of the embargo by Japanese merchants, notably the establishment by Japanese of a factory for explosives at Liutaokou in the district of Antung which it is understood is to be used for the manufacture of black and smokeless powder.

HUGHES

893.113/118

The Department of State to the British Embassy

MEMORANDUM

The Department of State has received the memorandum (No. 218) of the British Embassy of March 14, 1921, with reference to the subject of the embargo on the shipment of arms to China and notes that the Japanese Government has addressed a note to the British Ambassador at Tokyo urging the difficulty of its position *vis-à-vis* Japanese merchants who are desirous of obtaining, or of carrying

⁶³ Russia was also a party.

out, contracts for the supply of arms and munitions to China; and making reference, in connection therewith, to alleged sales by Americans of machinery for manufacturing arms to the Canton Government, to the Vickers contract for the supply of commercial airplanes, and to rumors of a contract entered into with the Handley-Page Company for the supply of seaplanes.

It is noted, with reference to the alleged sales to the Canton Government by Americans of machinery for manufacturing arms, that an investigation of certain shipments of machinery which reached Canton from the United States, and which appear to have been used in the rehabilitation of the arsenal at Canton, developed the fact that the machinery in question left the United States consigned to the Kwan Nam Shipbuilding Company of Canton, and that there appears to have been no indication that the machinery was for other than commercial uses.

With reference to the rumored contract with the Handley-Page Company for the supply of seaplanes, and to reports that this contract would be transferred to Americans in view of the refusal of the British Government to approve it, it should be added that the American Legation at Peking has been instructed that it does not seem advisable to encourage the Chinese Government to enter into a contract which, in the present circumstances of that Government, would appear to be merely prodigal; and that, in view of the serious effect that such a contract might have upon Chinese credit abroad, the Secretary of State would not feel warranted in giving his acquiescence thereto.

WASHINGTON, *March 24, 1921.*

893.113/132

The British Embassy to the Department of State

No. 249

MEMORANDUM

His Britannic Majesty's Embassy have the honour to acknowledge receipt of the State Department's memorandum of March 24th with reference to the embargo on the shipment of arms to China and note, with reference to the Japanese allegation that American shipments of machinery for the manufacture of arms have been made to the Canton Government, that there was in this case no indication that the machinery was destined for other than commercial purposes.

His Britannic Majesty's Embassy further note that the American Legation at Peking has been instructed not to encourage the Chinese Government to enter into a contract for the supply of seaplanes.

At the same time, and with particular reference to the last paragraph of their memorandum of March 14th, No. 218, His Britannic Majesty's Embassy would be gratified to learn whether the State Department are prepared to instruct the United States representative at Tokio to make representations either separately or conjointly with his British colleague to prevent any relaxation of the embargo on the part of the Japanese Government.

[WASHINGTON,] *March 30, 1921.*

893.113/132

The Department of State to the British Embassy

MEMORANDUM

The Secretary of State has the honor to acknowledge the receipt of the memorandum No. 249 from the British Embassy dated March 30, 1921, referring to the last paragraph of the Embassy's memorandum No. 218 of March 14 last, and asking whether the Department of State is prepared to instruct the diplomatic representative of the United States at Tokyo to make representations, either separately or conjointly with his British colleague, to prevent any relaxation of the embargo on the part of the Japanese Government.

The Secretary of State has the honor to observe in reply that as early as March 19 last, it advised its representative at Tokyo of the contents of the British Embassy's memorandum of March 14, 1921, and instructed him to make the same statement with regard to the arrival of alleged American arsenal equipment at Canton as was made to the British Embassy at Washington in the Department's memorandum of March 24, 1921, and add that this Government had been subjected to no little pressure from American merchants because of alleged violations of the embargo by Japanese merchants, notably the establishment by Japanese of a factory for the manufacture of black and smokeless powder at Liutaokou in the district of Antung.

With reference to the British Embassy's request, renewed in its memorandum under acknowledgment, the Embassy is advised that a joint resolution of Congress, approved March 3, 1921, repealed the provisions of the Espionage Act of June 15, 1917, which gave the United States Government the power to control the export of arms and ammunition, thus depriving the Department of State of any legal basis upon which to exercise control over shipments of arms to China. The Department is now endeavoring to obtain from Congress a renewal of the necessary legal authority to control ship-

ments of arms to China, and until its position in that regard has been made more secure by the enactment of such legislation as is at present hoped for, the Department does not feel that it would be wise for it to take more formal action at Tokyo, such as is proposed by the British Embassy.

WASHINGTON, *April 18, 1921.*

893.113/136 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, *April 26, 1921—noon.*

[Received 1:41 p.m.]

145. Your 49, March 19, 6 p.m. communicated to Foreign Office March 30 on receipt of corrections. Following reply dated yesterday and marked confidential, received today from Minister for Foreign Affairs:

"I have the honor to acknowledge the receipt of your note of March 30 in which you were good enough to inform me of the repeal of certain sections of the Espionage Act of the United States which had bearings upon the joint declaration of the powers providing for the suspension of the supply of arms and ammunition to China and of the attitude of the American Government under the circumstances. I have also carefully noted the statement contained in your note concerning the report of the sale by American merchants to the Canton Government of machinery for manufacturing arms and the establishment at Liutaokou by Japanese subjects of a factory for explosives.

With reference to the report of the sale by American merchants of machinery for the manufacture of arms you inform me that an investigation by your Government reveals the fact that certain machinery which appears to have arrived at Canton and to have been utilized at the Canton arsenal led to [left?] the United States consigned to a shipbuilding concern at Canton and that there was no indication that it was destined for the manufacture of arms and munitions of war. According to the information obtained by the Japanese Government it would appear that the ex-Governor of Canton and the superintendent general of the Canton Arsenal contracted through American merchants (Messrs. Davis and Company) at Hongkong for the obtaining from the United States of machinery for manufacturing rifles and aeroplanes and iron and steel materials for the erection of an arsenal valued at \$3,000,000, of which \$700,000 being paid in advance as earnest money and that of these articles the arsenal iron and steel materials arrived during the ex-Governor's tenure of office while the machinery for the manufacture of rifles and the aeroplanes arrived subsequently. Though it is difficult to prove whether this information is correct and whether the machinery for the manufacture of rifles corresponds to what is mentioned in your note, the report in question naturally caused no

small amount of excitement among the Japanese merchants who have been suffering most in a very difficult position, where in the face of pressing demand from the Chinese, they are prohibited to effect the demand of the arms and ammunition which were contracted for previous to the adoption of the joint declaration and for which earnest moneys were received from the Chinese. In this case I am contemplating further communication to you with reference to a memorandum recently addressed on the same subject to the British Ambassador in Tokyo. I venture to add on this occasion however that according to further information obtained from another source it would appear that the Chinese authorities at Canton have recently arranged through merchants at Macao to obtain from the United States amphibious aeroplanes for military purposes, those already purchased numbering over a dozen.

With reference to the factory for explosives under Japanese management at Liutaokou I beg to state that though it matters little that there is such a factory there it was established before the joint declaration for the purpose of manufacturing and selling mining explosives for supplying the various mines in Manchuria and at the same time to manufacture and sell powder for hunting purposes. The main equipment of the factory too is designed solely for the manufacture of mining explosives and moreover the said factory has been placed under the supervision of the Japanese consul at Antung without whose special permission none of its products can be sold. Under instructions from this Government the consul has been paying special care in granting that permission, regard being had to the spirit of the joint declaration of the powers for the suspension of the supply of arms and ammunition to China. There is therefore no good reason for the complaints of American merchants referred to in your note.

I beg you to accept, et cetera."

BELL

893.113/157

The Chargé in Japan (Bell) to the Secretary of State

No. 857

TOkyo, June 14, 1921.

[Received July 14.]

SIR: With reference to my telegram No. 145 of April 26, 12 noon, transmitting the text of a confidential note from the Minister for Foreign Affairs concerning the arms embargo with regard to China, and to the Department's telegram No. 75 of April 29, 1 p.m.⁶⁶ stating that our Government would welcome any evidence at the disposal of the Japanese Government regarding the actual existence of the Canton contracts mentioned in Count Uchida's note, I have the honor to report that I did not fail to bring this matter to the immediate attention of the Minister for Foreign Affairs.

I now have the honor to transmit herewith a Strictly Confidential Memorandum dated May 25, 1921, regarding the abovementioned

⁶⁶ Not printed.

contracts which was this day handed to me by the Vice-Minister for Foreign Affairs, as reported by me in my telegram No. 202 of June 14, 4 p.m.,^{66a} and to add that I have forwarded copies thereof to the American Minister at Peking for his information.

I have [etc.]

EDWARD BELL

[Enclosure]

The Japanese Foreign Office to the American Embassy

MEMORANDUM

While naturally refraining from affirming positively the report referred to in their note of April 25⁶⁷ addressed to the American Chargé d'Affaires to the effect that some American merchants had supplied the Canton Government with machinery for manufacturing arms and other articles the Japanese Government are none the less inclined to give a certain degree of credence to the information, emanating, as it did, from an official Chinese source. The substance of the said report may therefore with pertinence be given somewhat more in detail. Mo Ying-hsin, Ex-Governor of Canton, and Ma Chi, Superintendent-General of the Canton Arsenal, made a contract through Messrs. Davis & Co., American merchants at Hongkong, for the purchase from America [of] machinery for manufacturing rifles, a number of airplanes, and iron material for the construction of an arsenal, amounting in value to three million silver dollars of which sum seven hundred thousand dollars being paid as earnest. It would seem that Mo Ying-hsin and Ma Chi contemplated transporting these articles to Kwangsi where to build a new arsenal. Of these goods, the iron material arrived while the Ex-Governor was still in office and was immediately transported to Kwangsi, but the arrival (about December of last year) of the machinery and the aeroplanes was delayed until after the revolution in Canton whereby the two officials lost their positions. As the contract was made in behalf of the Province of Canton, the articles last named were received by Chen Chiung-ming. They tried at the time to install the machinery in the Shih ching Arsenal of Canton but could not do so on account of the arsenal being too small in scale.

As for the report of the purchase from America by the Canton authorities through merchants at Macao of more than a dozen amphibious military planes, the Japanese Government came by the information from a no less reliable source though they have not been able to obtain further details in this respect. It may, however, be mentioned in this connection that previous to this (about November

^{66a} Not printed.

⁶⁷ See telegram no. 145, Apr. 26, from the Chargé in Japan, p. 556.

of last year) the Japanese Government received a news which might possibly be connected with the same subject as the said report and which, though not confirmable, cannot, in view of the circumstantial account it gives, be dismissed as a groundless rumour. It is roughly to the following effect:—

(1) In February of last year, at the request of Chen Chiung-ming a certain Mr. Chen Ching-yun (said to be a graduate of an American aviation school) went to Shanghai and ordered by letter seven hydroplanes from America. Where the order was placed is not stated, but Chen Ching-yun is said to have mentioned the American Navy.

(2) Of these seven hydroplanes, two arrived at Swatow on September 11 of last year by S.S. *Tung Sheng* of Jardine, Matheson & Co. As they were entered in the declaration simply as "aeroplanes", the Customs Office at Swatow proceeded to examine them as common goods. The headquarters of the Canton Army thereupon despatched a number of armed troops who prevented the examination and caused them to be landed almost by force. The hydroplanes were being kept in hangar at the headquarters of the aviation corps of the Canton Army. The details of these hydroplanes are as follows:

- (a) Large size HSIL Curtiss 400 HP. Six-seated biplane capable of flying continuously for 7 hours, and of carrying 400 pounds of bombs. Price 13,000 gold dollars.
- (b) Small size Acromarine Curtiss 100 HP. Double-seated hydrobiplane, capable of flying continuously for 3 hours, and of carrying 100 pounds of bombs. Price \$6,000.
- (3) Two more planes of the same type as that given under (a) were sent by S.S. *Kuang Sheng* of Jardine, Matheson & Co. which arrived at Hongkong on October 9 of last year.
- (4) The remaining four planes classed as large-sized hydroplanes seating fifteen persons, were still on the way at the time.

TOKIO, *May 25, 1921.*

693.119/445

The Secretary of State to the Chairman of the Senate Committee on Foreign Relations (Lodge)

WASHINGTON, *August 12, 1921.*

MY DEAR SENATOR: Adverting to my letter of March 14, 1921,⁶⁸ and to your reply of March 15,⁶⁹ relative to the declaration of May, 1919, by which certain powers represented at Peking mutually agreed

⁶⁸ *Ante*, p. 551.

⁶⁹ Not printed.

to restrict shipments from their respective countries to China of arms and munitions of war until the present civil strife in that country has ceased and normal conditions are restored, and in which letter you stated that on the reconvening of Congress in extra session you would lay my letter of March 14, 1921, before the Committee on Foreign Relations and ask for action upon it, I have the honor to state that, in the absence of any legal authority to control the exportation of arms and munitions to China, the Department is finding it difficult to meet its commitment under the joint declaration above mentioned. Since the repeal of the Espionage Act of June 15, 1917, under certain provisions of which shipments of munitions to China were controlled, the Department has been without recourse in enforcing its part of the joint declaration. In justice to arms manufacturers, to the other nations which are parties to the agreement and to the Chinese Government, the Department would be much relieved if it could be assured whether or not there is a likelihood of the Foreign Relations Committee giving favorable consideration to the proposal that Public Resolution No. 22 of March 14, 1912, (37 Stat., page 630) be amended by striking out the word "American" in the first line, or by such other means as the Committee may deem advisable to enable this Government to continue its cooperation in this matter with the Governments mentioned in my letter of March 14, 1921.

If it should be the decision of the Committee on Foreign Relations not to give favorable consideration to the proposed legislation, it would of course be necessary for the Department, on being so informed, to take appropriate steps to relieve this Government of its commitment under the above mentioned declaration.

I am [etc.]

CHARLES E. HUGHES

893.113/175

The Secretary of State to the Secretary of War (Weeks)

WASHINGTON, *September 12, 1921.*

SIR: This Department has received a letter, dated September 6, 1921, addressed to the Chief of the Division of Far Eastern Affairs by the Chief of the Bureau of Insular Affairs of the War Department,⁷⁰ stating that he was in receipt of a telegram from the Acting Governor General of the Philippine Islands to the effect that the Oriental Trading Company requested authority to ship to China 3,000 rifles and 1,500,000 rounds of ammunition.

There has been an understanding since May, 1919, among the powers who were allied and associated in the war, whereby they undertook to restrict shipments by their nationals to China of arms

⁷⁰ Not printed.

and munitions of war as long as it was obvious that the importation of such military equipment into China tended only to prolong the present unfortunate state of civil strife in that country. This Government was enabled to fulfill its part of that obligation by reason of those provisions of the Espionage Act which gave the Executive control over exports, through the intermediary of the War Trade Board.

Certain provisions of the Espionage Act of June 15, 1917, were repealed by a Joint Resolution of Congress, which was approved March 3, 1921. Among those provisions thus repealed were those which provided for control over exports, and the Executive has therefore been deprived of any legal basis upon which to exercise further control over shipments of arms to China. There would appear to be no reason for believing that conditions in China at the present time warrant any change in the policy of this Government in this matter, and the Department of State is therefore seeking to obtain legislation to enable it to continue to cooperate with the powers who are parties to the joint declaration of May 5, 1919. It is expected that the matter will be brought up when Congress convenes the latter part of the present month. In the meantime, the Department of State, as a matter of policy, is refusing to lend any encouragement or support to American manufacturers of munitions who desire to sell or ship arms and munitions of war to China.

I therefore have the honor to request that you will intimate to the Acting Governor General of the Philippine Islands the desire of this Department that he will do nothing to encourage shipments to China of munitions of war such as that contemplated by the telegram received by the Chief of the Bureau of Insular Affairs.

I have [etc.]

For the Secretary of State:

F. M. DEARING
Assistant Secretary

893.113/201

The British Ambassador (Geddes) to the Secretary of State

No. 917

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and, with reference to Mr. Hughes' communication of April 18th respecting the importation of arms into China, has the honour to inform him, on instructions from his Government, that information has been received that further large supplies of machinery for the Canton arsenal, of which an American citizen was appointed engineer in chief last March, are reaching that town from Manila.

Sir Auckland Geddes ventures to bring these matters to Mr. Hughes' attention in the hope that he may feel disposed strongly to urge the competent authorities of the United States Government to make every possible endeavour to enforce the embargo and to prevent any further shipments of arms or military stores into China.

WASHINGTON, *December 8, 1921.*

893.113/202 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, *December 9, 1921—9 p.m.*

[Received December 9—11 a.m.]

440. Legation's 267, September 23, 6 p.m., 1920.⁷¹ Following upon an agreement with my British, French and Japanese colleagues the following identic telegram is being forwarded by the four Ministers to their Governments:

"As a result of identic telegram September 23, 1920, representatives of France, Great Britain, Japan and the United States made representations to the Italian Government last December⁷² under instructions from their respective Governments.

Representatives of four powers in Peking now desire to draw the attention of their Governments to the following facts and to suggest that the matter be brought to the notice of the Washington Conference.

Japanese Minister having ascertained that arms which had been stored in Italian barracks at Shanhaikwan were being handed over to Military Governor of Chihli inquired of Italian Chargé d'Affaires who tried to justify sale on the ground of [*that*] embargo agreement had not been recognized by his Government in respect of arms contracted for before its adoption.

He considers himself at liberty to dispose of arms until he receives orders to the contrary. It is noteworthy that arms were handed over secretly at [*on*] nights of November 21st and 22nd. It was ascertained quantity delivered was 80 wagon loads."

SCHURMAN

893.113/203 : Telegram

The Ambassador in Italy (Child) to the Secretary of State

ROME, *December 13, 1921—1 p.m.*

[Received 9:08 p.m.]

258. Japanese Chargé d'Affaires called upon me this morning and referring to the decision taken on the initiative of the American Minister in Peking by the Governments of the United States, Great

⁷¹ *Foreign Relations*, 1920, vol. I, p. 749.

⁷² See communications from the Ambassador in Italy: telegram no. 479, Dec. 20, 1920, *ibid.*, p. 754, and despatch no. 262, Jan. 5, 1921, *ante*, p. 535.

Britain, France, Italy and Japan on April 8, 1919,⁷³ to abstain from importing arms and munitions to China and to the withdrawal on the part of the Italian Government of the reservation made by the Italian Minister at Peking April 26th, 1919,⁷⁴ in regard to the execution of contracts already made for the delivery of arms, stated that in spite of this decision a part of arms and munitions which will include [*sic*] the Italian garrison at Shanhaikwan were delivered about the 21st or 22nd of last month to the Chinese garrisons in the same city. He adds that to an inquiry made of the Italian Chargé d'Affaires at Peking the latter had replied that he has never received instruction from his Government to withdraw the reservation above referred to and does not consider consequently that the delivery of these arms is in contravention to the agreement. The Japanese Chargé d'Affaires urges me to follow the initiative taken by United States in Peking by protest to the Italian Government. I replied that I would submit the matter to your attention and await your instructions. The Japanese Chargé d'Affaires is consulting the Allied chiefs of missions concerned and begs me for a prompt decision.

CHILD

 893.113/207 : Telegram

The Ambassador in Italy (Child) to the Secretary of State

ROME, December 17, 1921—2 p.m.

[Received December 17—1:35 p.m.]

261. British and French colleagues have been instructed to join in action suggested my cable no. 258, December 13, 1 p.m. They and Japanese Chargé d'Affaires await your instructions to me.

CHILD

 893.113/207 : Telegram

The Secretary of State to the Ambassador in Italy (Child)

WASHINGTON, December 23, 1921—6 p.m.

203. Your 261 December 17, 2 p.m.

You may separately but simultaneously with your British, French and Japanese colleagues make representations suggested in your 258 December 13, 1 p.m., protesting to Italian Government against the

⁷³ See telegram of Apr. 10, 1919, from the Minister in China, *Foreign Relations*, 1919, vol. I, p. 667.

⁷⁴ See telegram of May 17, 1919, from the Minister in China, *ibid.*, p. 670.

handing over to the Military Governor of Chihli Province arms which have been stored in Italian Barracks at Shanhaikuan.

HUGHES

893.113/210

The Department of State to the British Ambassador (Geddes)

MEMORANDUM

The Department of State acknowledges the receipt of the memorandum of His Britannic Majesty's Ambassador of December 8, 1921, relative to information received by the British Government to the effect that large supplies of machinery for the Canton Arsenal are reaching Canton from Manila.

The Department of State immediately telegraphed this information to the American Consul General at Canton and requested a report. A reply has now been received from the American Consul General at Canton to the effect that after a most thorough investigation he has convinced himself that there is no foundation for the report that further large supplies of machinery are being received at Canton from Manila for the Canton Arsenal.

WASHINGTON, *December 31, 1921.*

OPERATION OF THE CHINESE EASTERN RAILWAY⁷⁵

Proposal by the United States to Amend the Allied Agreement of January 1919—Failure of Certain Powers to Discharge Their Obligations to the Railway—American and British Opposition to a Chinese Proposal for a Bond Issue—Rejection by Japan of the American Proposal for a Revised Plan of Operation

861.77/2082b

*Memorandum by the Department of State*⁷⁶

With a view to meeting the obvious need for a more economical operation of the Chinese Eastern Railway, to place the line on a sound financial basis, to restore normal traffic conditions, to provide

⁷⁵ Continued from *Foreign Relations*, 1920, vol. 1, pp. 679-727.

⁷⁶ This memorandum served as the basis of a conversation between the British Ambassador and the Acting Secretary of State; see note of Mar. 24 to the British Ambassador, p. 573. Its substance was telegraphed on Jan. 20, 6 p.m., to the American Ambassador in Great Britain (no. 51), with instructions to repeat to the Ambassador in France as no. 53, and to the Chargé in Japan as no. 18, with instructions to repeat to the Minister in China as no. 33 (file nos. 861.77/1921b,a).

a proper trusteeship for Russian interests, and to stabilize the situation in the Far East as far as may be possible, the Government of the United States is convinced that certain amendments to the Inter-Allied agreement of January, 1919,⁷⁷ which now governs the operation of the line, have been made necessary by reason of changed conditions in the Railway Zone. It is believed by the Government of the United States that the following amendments to the above mentioned agreement would meet all the requirements of the new situation.

Omit paragraph (1) thus abolishing the Inter-Allied Committee, and substitute the following:

The general supervision of the Chinese Eastern Railway shall be under the joint control of the United States, England, France, Japan and China, such supervision to be vested exclusively in a Board which shall be known as the Technical Board and which shall consist of representatives of the United States, England, France, Japan, Russia and China. It is understood that the Board shall consist of railway experts of the nations above mentioned and that the technical and economic administration of the affairs of the railway shall be under the sole control of the Board.

(a) Such powers as the present Technical Board possesses shall be preserved and continued under the new arrangement and the Board hereby created shall in addition have full control over the receipts and disbursements of the company's revenues.

(b) The Board shall also fix all tariffs and control all questions relating to personnel both of officers and employees, including the power of engaging or dismissing them. The Board may also, in its discretion, employ a Russian as General Manager, but with the understanding that he shall be under the authority of the Technical Board.

(c) The President of the Technical Board shall be its responsible head and shall be entrusted with the administration of the duties of the Board as above set forth, and in the exercise of such duties he shall not be subject to control by a majority vote or otherwise by the members of the Board except in matters on which he may seek their advice. As far as may be possible full responsibility shall be vested in the President of the Board who shall actively administer its affairs. His tenure of office shall be subject to the decision of a majority of the Technical Board with the approval of the Governments who are parties to this agreement.

(d) The Technical Board shall have authority to abrogate or to modify in any way in which it may deem advisable the so-called "Russian Laws" governing the technical details of the operation and maintenance of the railway.

(e) No political activity whatever shall be countenanced in the administration of the affairs of the railway by the Board. Its duties

⁷⁷ See telegram, Dec. 27, 1918, 10 p.m., from the Ambassador in Japan, *Foreign Relations*, 1918, Russia, vol. III, p. 301.

and obligations shall be confined strictly to the administration, operation and financial control of the railway.

The foregoing substitute for paragraph (1) shall also take the place of paragraphs (2) (3) (4) and (5) of the agreement of January, 1919. The amended agreement will therefore read as set forth in the above substitute for paragraph (1).

Concerning the financial condition of the Chinese Eastern Railway it is stated that exclusive of the amounts due from various Red Cross and similar organizations, certain powers are now indebted to the railway for military transportation in an amount approximating six million dollars gold. If this sum could be collected and an additional amount of six million dollars gold placed to the credit of the Technical Board, sufficient working capital would then be available. According to information at hand at present the debts of the railway amount to approximately seven million dollars gold but it has been the hope that the amounts due for military transport would be available to extinguish the floating debt aside from whatever might be due the railway from the Russian Government. No definite figures on the last mentioned phase of the matter are available, however. The world-wide business depression has resulted in the absence at present of any demand for soya beans, in consequence of which the revenue derived from the transportation of this product has seriously affected the railway. With a return to former normal conditions in the commercial and industrial world, and with prompt payment of current military transport bills, there is no valid reason to doubt the ability of the Chinese Eastern Railway, under proper management, and with the power to reorganize the railway, to make a profit over and above all of its legitimate charges and at the same time to bring about a substantial reduction in its present unduly high tariffs. This can be done only by operating the railway under the absolute orders of the Technical Board and with full executive authority vested in its President.

In submitting this revised plan for the operation of the road the Government of the United States expresses full confidence that the interested Governments will be willing that Mr. John F. Stevens, who has so ably filled the position of President of the Inter-Allied Technical Board since its inception, shall be selected as President of the Technical Board under the amended plan herein suggested.

WASHINGTON, *January 13, 1921.*

861.77/1930 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, *January 29, 1921—11 a.m.*

[Received 3:11 p.m.]

Kappel Army excepting few staff trains all moved to Maritime Province. Bean wheat rate reduction Chinese-Eastern increased earnings eight hundred thousand gold rubles over what we otherwise would have earned enabling railway to meet January pay roll but leaving no balance for fuel and other bills. In spite of pressure Japanese paid nothing in January on transportation bills. Railway floated two million rubles short-time notes to meet fuel payments not including Fushun coal indebtedness but so far have kept these notes out of the hands of the Japanese banks. Railway owes three months Fushun coal. . . . Situation between the Chita government and the Japanese becoming tense with Chita massing troops at Habarovsk and Imperial Japan is trying to arrange with China to move armed troops across Manchuria in case hostilities break out. Dr. Wang ⁷⁸ apparently so far successful in [resisting] efforts of pro-Japanese elements to eliminate him. Pneumonic plague broken out west of Harbin spreading rapidly.

JOHNSON

861.77/1960a : Telegram

*The Secretary of State to the Ambassador in Great Britain (Davis)*⁷⁹

[Paraphrase]

WASHINGTON, *February 18, 1921—2 p.m.*

97. The Department has information indicating that large sums of money owed by the Japanese Government to the Chinese Eastern Railway for transportation are being withheld by the Japanese on the plea that Czech, French, and Polish accounts have not yet been paid. It also seems that the Chinese Eastern is being pressed by

⁷⁸ Dr. C. C. Wang, Chinese representative on the Inter-Allied Technical Board and member of the Board of Directors of the Chinese Eastern Railway.

⁷⁹ The same sent to the Ambassador in France as no. 97, except for the first sentence of the second paragraph which states that the Department hopes soon to confer with the French Ambassador on the matter (file no. 861.77/1960b).

Japanese interests for large payments on account of coal which the Fushun mines have supplied. The railway is confronted with the immediate danger of a financial crisis due to these conditions and to the decrease in freight revenues which has resulted from the depressed market for the products of Manchuria. Under these circumstances there is a possibility that on the ground of military exigency occasion may be taken by some of the military forces operating in Manchuria to take possession of the railway and thus endanger existing arrangements for joint control by the Allies.

When the British Ambassador returns here, probably February 23, the Department hopes to confer with him on this matter. The Department wishes that meanwhile you call the attention of the Foreign Office to the foregoing. Find out and report as to whether the Ambassador is so situated that proposals to solve the issue by continuing the present inter-Allied railway control in a more effective form will be entertained by him on behalf of his Government.

COLBY

861.77/1966

*Memorandum by the Chief of the Division of Far Eastern Affairs,
Department of State (MacMurray)*

[WASHINGTON,] February 19, 1921.

Memorandum of conversation with Mr. Saburi, Secretary of Japanese Embassy, regarding financial condition of Chinese Eastern Railway, February 18th, 1921.

By direction of Ambassador Morris, I requested Mr. Saburi to call on me at three o'clock. I told him that we were feeling somewhat anxious in regard to the financial status of the Chinese Eastern Railway, inasmuch as the road, operating under abnormal conditions and further disabled by the slump in Manchurian products, was badly handicapped by the failure to receive payment of the large transportation bills incurred for the Czecho-Slovak, Polish and French troops,—and now still further handicapped by the refusal of the Japanese to pay for their troops, on the ground that the French were withholding payment of their accounts. I said that the Japanese Government would doubtless be as concerned as we, if the withholding of these payments were to precipitate a new situation that would upset the present system of inter-allied control which had in fact been worked out between the Japanese Foreign Office and our Embassy in Tokyo; and that we took it for granted that the Japanese would not desire to upset the cooperation we had established, solely for the reason that certain third parties had failed to cooperate for their part.

I then remarked that the financial situation carried with it a danger of unfortunate political complications;—that various factions in Russia were contending for control of the railway, that the Chinese Government was seeking to extend its powers over the line, and that a further complicating influence was the effort of Chang Tso-lin to consolidate his position throughout Manchuria and over the railway. I said that to allow the railway to go bankrupt would amount to throwing it like a penny to be scrambled for, and that none of us could foresee what might result from such a scramble. I incidentally remarked that we hoped the Japanese would be able to exercise a restraining influence upon General Chang in this matter, which would doubtless be the more effective inasmuch as it was known that they had concluded with him some sort of an agreement in December last.

Mr. Saburi said he understood there were two questions,—the general question of maintaining the present inter-allied cooperation in controlling the railway, and the more concrete question of settlement of accounts. I said that the two questions were to our mind simply phases of the same matter—that we regarded the financial adjustments as a necessary condition precedent to effective maintenance of the present control. I added that I was mentioning this matter to Mr. Saburi because we were taking up the whole question with the British and French Governments, and felt that it was due in fairness to the Japanese, who were our original partners in the plan of railway control, to keep them frankly advised of the action we were taking with the other partners. He asked whether we had taken up diplomatically with the Japanese Foreign Office, as we were doing with the British and French Foreign Offices, the matter of delays in payment for transportation. I said that we were not doing so, as in the case of the Japanese it was merely a matter of urging prompt settlement of an account, whereas in the case of the British and French it was a matter of negotiations concerning the obligations assumed with respect to the Czecho-Slovak and Polish contingents in Siberia.

Mr. Saburi asked for a statement of the amounts due for transportation of the several forces, as well as the amounts hitherto paid to the railroad by this Government. I called in Mr. Jameson,⁸⁰ who from memory stated in round terms the several amounts. I then arranged with Mr. Saburi to forward him a statement of the precise figures: and later in the afternoon I mailed to him without covering letter of any sort a copy of the attached memorandum prepared by Mr. Jameson.

MACM[URRAY]

⁸⁰ J. Paul Jameson, consul, temporarily detailed to the Department.

[Enclosure]

Statement of Amounts Due the Chinese Eastern Railway for the Transportation of the Troops of Various Nations and Amounts Already Paid by the United States Government

[WASHINGTON,] February 18, 1921.

1. Amounts owed now for transportation of troops of the following nations over the Chinese Eastern Railway.

Japan	Yen 1, 600, 000.
France	\$ 425, 546. 99
Czecho-Slovakia	3, 416, 011. 53
Poland	87, 717. 19
Serbia	20, 117. 29
Roumania	86, 537. 90
Latvia	13, 492. 47
United States	66, 176. 50

2. Total Amount Already Paid by the United States for transportation of its troops over the Chinese Eastern Railway \$567, 858. 68
 Amount Still Owed 66, 176. 50

U.S. Total transportation bill \$634, 035. 18

3. Amount allotted by the United States to the Chinese Eastern and Siberian Railways . . \$5, 000, 000. 00

4. Amount Contributed to the Committee . . . \$4, 124, 056. 93

861.77/1962: Telegram

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

[Paraphrase]

LONDON, February 21, 1921—4 p.m.

[Received 5:21 p.m.]

133. Department's no. 97, February 18. The Foreign Office did not have this matter under consideration when Ambassador Geddes sailed and he left without instructions on the subject. Instructions will be sent to him to take it up for discussion when he reaches Washington.

DAVIS

861.77/1963 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, *February 23, 1921—6 p.m.*

[Received February 24—7:27 a.m.]

Referring to my cable of February 14, 11 a.m.⁸¹ Technical Board for 60 days has succeeded in restricting Chinese Eastern disbursements to actual pay roll and expenses directly related to train operation: this policy together with payment of half million yen from the Japanese enables railway to meet pay roll this month but results in most embarrassing pressure from other creditors. Pneumonic plague still in hand with 1,500 deaths to date Harbin and west of which 40 Harbin.

JOHNSON

861.77/1965 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

[Paraphrase]

PARIS, *February 24, 1921—6 p.m.*

[Received February 24—4:44 p.m.]

143. Department's 97, February 18.⁸² Your statement called to attention of Foreign Office which has assured me that French Ambassador will be instructed to consider the proposals you are making.

WALLACE

861.77/1976 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, *March 3, 1921—9 a.m.*

[Received March 3—8:27 a.m.]

Far Eastern Republic is about to request Railway Committee that the activities Railway Committee and Technical Board be extended to include all Far Eastern Republic railways. What attitude does the Department desire us to assume?

JOHNSON

⁸¹ Not printed.

⁸² See footnote 79, p. 567.

861.77/1977: Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, *March 4, 1921—5 p.m.*

[Received March 5—10:21 a.m.]

Manchuria Station frontier opened with some restrictions by the Chinese authorities today. This should improve Chinese Eastern earnings so they can get through March but will not enable them to make any headway against overdue liabilities.

JOHNSON

861.77/1995: Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, *March 14, 1921—7 p.m.*

[Received March 15—9:43 a.m.]

Referring to my cable of February 23, 6 p.m. March earnings slightly better but the Chinese directors forcing railway to make payments at variance with principle outlined in my telegram of February 23, 6 p.m.; it is clear that regardless of improvement in earnings financial condition will not improve under Chinese control. Russian reactionaries intriguing to create discord among the Technical Board of directors and railway in securing which, while unsuccessful, block constructive work. Railway creditors pressing railway so the Chinese directors are trying to arrange loan Chinese banks and if unsuccessful will turn to Japanese banks for help which the latter are ready to supply. General conditions so serious Railway Administration appealing to us for assistance. Unless something is done Technical Board cannot withstand above combinations much longer. Has the Department any information to give us on the subject?

JOHNSON

861.77/1976: Telegram

The Secretary of State to the Consul at Harbin (Jenkins)

WASHINGTON, *March 18, 1921—1 p.m.*

For Johnson:

Your March 3, 9 a.m. Pending the negotiations among the powers, regarding continued Allied operation of the Chinese Eastern Railway, the question of extending the activities of the Railway Committee and Technical Board to railways of Far Eastern Republic is not opportune. You may unofficially so inform representative of Far Eastern Government.

HUGHES

861.77/2052a

*The Secretary of State to the British Ambassador (Geddes)*WASHINGTON, *March 24, 1921.*

MY DEAR MR. AMBASSADOR: Adverting to our conversation of today in reference to the practical necessity for a modification and strengthening of the existing agreement for the international control of the operation of the Chinese Eastern Railway, I am sending you herewith, for your consideration, a copy of the memorandum⁸⁵ on this subject which was made a basis of a conversation with you in January last by Mr. Norman H. Davis, then Acting Secretary of State.

In communicating to you these suggestions for the improvement of the present system of international control of the operation of the railway, I would bespeak your sympathetic and careful consideration, and have to assure you that I would welcome any such comments or suggestions as would in your opinion facilitate a full and frank understanding between our two Governments as to the course to be pursued by them in reference to the somewhat critical situation in which the Chinese Eastern Railway is now placed.

In this connection, I am also forwarding as of possible convenience to you in your consideration of this question a print on the subject of the assistance given in the operation of the Trans-Siberian Railway system,⁸⁶ containing (on Page 3) the original plan for the supervision of the Chinese Eastern and Trans-Siberian Railways,⁸⁷ together with the appended memorandum agreed upon between the American Ambassador at Tokyo and the Japanese Minister of Foreign Affairs, on January 9, 1919.⁸⁸

I am [etc.]

CHARLES E. HUGHES

861.77/2009 : Telegram

*The Secretary of State to the Consul at Harbin (Jenkins)*WASHINGTON, *March 24, 1921—1 p.m.*

For Johnson from Stevens.

“Your cable March 14th, 7 p.m.⁸⁹ Technical Board must maintain firm stand on all its rights regardless of results. Efforts to have amended Allied agreement giving enlarged complete powers being pushed by Department. You must hold the situation despite intrigues.”

HUGHES

⁸⁵ Memorandum by the Department, Jan. 13, p. 564.⁸⁶ Not printed.⁸⁷ See *Foreign Relations*, 1918, Russia, vol. III, p. 301.⁸⁸ See telegram of Jan. 9, 1919, from the Ambassador in Japan, *ibid.*, 1919, vol. I, p. 590.⁸⁹ See telegram, Mar. 14, addressed to the Secretary of State, p. 572.

861.77/2022 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, April 4, 1921—4 p. m.

[Received April 4—11:53 a.m.]

141. Dr. Wang, Second Vice President Chinese Eastern, informs Legation that two million gold is necessary to finance the railway for 1921 and that at a meeting to be held by the Railway Board in April resolutions will be adopted urging payment of three million gold due the railway for the evacuation of Czecho-Slovak troops in the winter of 1920. Dr. Wang has asked Legation to whom this account should be addressed as up to the present time it has been charged to Czecho-Slovak Government who have as yet been unable to meet this obligation which in its finality the railway understood to be an inter-Allied obligation. It has been suggested that the charge may be against established United States Government credits. Dr. Wang asks that as the financial condition of the railway and also the willingness of certain Japanese banks to advance money are well known to John F. Stevens, now in the United States, upon consultation with him the Legation may be instructed by the Department what reply if any should be made to Dr. Wang regarding the present financial situation of the railway. Colonel Johnson advised.

CRANE

861.77/2026 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, April 5, 1921—5 p.m.

[Received April 6—9:57 a.m.]

The Department will receive telegram from Legation at Peking outlining plan for the United States Government to take over the Czecho-Slovak obligation to Chinese Eastern Railway. Aside from impracticability of the plan any financial assistance without absolute control would only further involve railway.

Referring to my cable of March 22, 5 p.m.⁹⁰ only 1,500 tons foodstuffs moved into the Chita district since March 4 on account of no cash credit arrangement and no eastward movement of raw material across frontier to create credit. Plague situation west, south and east of Harbin good but still 100 deaths Harbin daily.

JOHNSON

⁹⁰ Not printed.

861.77/2029 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, April 9, 1921—4 p.m.

[Received 8:44 p.m.]

Various rate reductions from the Chinese Eastern Railway via Vladivostok have increased movement via Vladivostok to about 1,500 net tons per diem, but continuation of such movement endangered by the Japanese Command interfering with free return movement of cars. This situation pretends [*sic*] growing interests in train movement by the Chinese soldiers in Manchuria prompted Technical Board to enter protest with individual Peking legations requesting action by them with the Japanese and Chinese authorities to eliminate above interference.

JOHNSON

861.77/2033 : Telegram

The Minister in China (Crane) to the Secretary of State

[Paraphrase]

PEKING, April 12, 1921—noon.

[Received April 12—3:16 a.m.]

152. Your telegram no. 18, January 20.⁹¹ A nearly verbatim copy of the text of that cable has been received by the British Legation which has been instructed to cable its views after consulting this Legation on the matter.

It is the desire of the British Legation to learn what governments, besides that of Great Britain, the American Government has approached. I desire instructions as to the extent I have authority to discuss this proposal and with whom.

CRANE

861.77/2033 : Telegram

The Secretary of State to the Minister in China (Crane)

[Paraphrase]

WASHINGTON, April 13, 1921—5 p.m.

114. Your telegram no. 152 of April 12, noon. To date only the British Ambassador has been consulted informally with regard to this concrete proposal as to reorganizing supervision over the Chinese

⁹¹ Not printed; no. 18 was sent to the Chargé in Japan with instructions to repeat to the Minister in China as no. 33. See footnote 76, p. 564.

Eastern Railway. This has been done in order to compare views with the Government of Great Britain as a preliminary before negotiating more formally with the Governments of other interested powers. Negotiations with these Governments would be taken up in Washington with their representatives here. Do not discuss the matter except with the British Legation. If others indicate that they know of the proposal, report without delay to the Department.

Try to impress upon the British Minister that the American Government attaches very great importance to the hope that Great Britain will cooperate regarding this proposal which the American Government considers to be fundamentally important for developing both Siberia and Manchuria.

HUGHES

861.77/2043 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, April 13, 1921—5 p.m.

[Received April 20—1:30 p.m.]⁹²

154. Referring to Colonel Johnson's telegram of April 9, 4 p.m. Please instruct regarding protest to Chinese and Japanese.

CRANE

861.77/2022 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, April 13, 1921—6 p.m.

115. Your 141, April 4, 4 p.m.

Department has been endeavoring through negotiations with Prague and Paris to secure for the Chinese Eastern payment of Czech transportation bill. Czechs state at present they have no money to pay. French are reluctant to admit responsibility for Czech transportation but matter is not yet considered hopeless. It would not in any case be possible for the United States to give consideration to the question of furnishing funds to meet this obligation pending a satisfactory adjustment of the question of railway control.

Advise Colonel Johnson for Technical Board's information.

HUGHES

⁹² Text printed from corrected copy received Apr. 21, 6:30 a.m.

861.77/2044 : Telegram

*The Acting President of the Technical Board (Johnson) to the
Secretary of State*

[Extract]

HARBIN, April 18, 1921—5 p.m.

[Received April 20—11:29 a.m.]

Referring to my cable of March 14th, 7 p.m. Chinese directors again forcing railway to make improper payments to the Chinese interests: Technical Board taking positive issue with the Chinese.

JOHNSON

861.77/2054a

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, April 25, 1921.

MY DEAR MR. AMBASSADOR: May I inquire whether you have as yet received from your Government any definite indication of its disposition with respect to the proposal for the reorganization of the international control of the Chinese Eastern Railway, as outlined in the memorandum which I had the pleasure of sending you in my letter of March 24th?

The necessity of some such reorganization has long been apparent; and in the discussions which have taken place in London, between the British Foreign Office and our Embassy, and here, between you and Mr. Norman Davis and myself, there has appeared to be a very gratifying identity of views as to the purposes to be sought and the general methods to be followed.

The increasing difficulties encountered in the operation of the railway have now become more than ever critical, and I have felt it necessary to ask Mr. John F. Stevens, who had been brought to this country for consultation as to the plan of reorganization, to return in the near future to Manchuria, to resume in person the task of controlling the operation of the line. It would be of obvious advantage if, before his departure, it should be possible to arrive at such an understanding between our two Governments as would afford a basis for presenting formally to the other interested Powers a revised plan of operation which would make him secure in the performance of his duties.

It is for this reason that I venture to recall this matter to your attention, in the very earnest hope that the opportunity may not be lost for cooperation between our Governments in making effective the international control of the operation of this railway, which appears to me to be a matter of fundamental and urgent importance for the stabilization of the situation in the Far East.

I am [etc.]

CHARLES E. HUGHES

861.77/1962 : Telegram

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

WASHINGTON, April 27, 1921—8 p.m.

241. Your 133, February 21, 4 p.m.⁹³

On February 24, the British Ambassador informed Secretary of State Colby and Under Secretary Davis that his Government was willing to cooperate but was unable to put up any money; that the United States must take the lead and that the British would follow. He also stated that with minor amendments the plan proposed in the Department's No. 51 January 20, 6 p.m.⁹⁴ would be satisfactory and that he would be glad to take up the matter in the near future. The Ambassador was reminded that this Government had already taken the initiative and that a frank understanding was desired before proceeding further. The Ambassador was also informed that any attempt on the part of the British Government to take the role of mediator between the United States and Japan in the case of controversy would not be considered the proper method of dealing with the subject. Nothing further was heard from the Ambassador and on March 24, the Secretary of State addressed a note to him enclosing a memorandum setting forth in detail the revised plan for the supervision of the railway. See Department's No. 51 January 20, 6 p.m. In submitting this memorandum the Secretary of State stated that he would "welcome any such comments or suggestions as would in your opinion facilitate a full and frank understanding between our two governments as to the course to be pursued by them in reference to the somewhat critical situation in which the Chinese Eastern railway is [now] placed." On April 12, the Legation at Peking telegraphed that the British Minister had received a transcript of the text of the Department's No. 51 of January 20, 6 p.m. with instructions to report its views after consultation with the American Minister. The Department instructed Minister Crane to discuss the matter only with the British Legation and to impress

⁹³ *Ante*, p. 570.

⁹⁴ Not printed; see footnote 76, p. 564.

upon the Minister the importance that this Government attaches to British cooperation in this project which is of fundamental importance to the development of both Manchuria and Siberia.

The Secretary of State on two occasions has orally inquired of the British Ambassador concerning the proposed plan but has been informed that the matter is still under consideration by the British Government. On April 25, the Secretary of State again addressed a note to the British Ambassador inquiring whether his Government had given any definite indication as to its disposition with respect to the new proposal. The note also stated that "the increasing difficulties encountered in the operation of the railway have now become more than ever critical, and I have felt it necessary to ask Mr. John F. Stevens, who had been brought to this country for consultation as to the plan of reorganization, to return in the near future to Manchuria, to resume in person the task of controlling the operation of the line. It would be of obvious advantage if, before his departure, it should be possible to arrive at such an understanding between our two Governments as would afford a basis for presenting formally to the other interested powers a revised plan of operation which would make him secure in the performance of his duties."

The above is for your information and you may use it orally as the basis of inquiring from the British Foreign Office whether any definite reply to the proposals can be expected in the near future and in expressing the very earnest hope that the opportunity may not be lost for cooperation between our governments in making effective the international supervision of the operation of this railway which is a matter of fundamental and urgent importance for the stabilization of the situation in the Far East.

HUGHES

861.77/2055 : Telegram

The Secretary of State to the Consul at Harbin (Jenkins)

WASHINGTON, April 30, 1921—6 p.m.

For Johnson from Stevens.

"Your April 18 4 [5] p.m.⁹⁵ Technical Board should issue positive instructions to railway management to make no payments whatever except such as authorized by Board. Copy of these instructions should be handed Chinese member of Board for transmission to his Government."

HUGHES

⁹⁵ See telegram, Apr. 18, addressed to the Secretary of State, p. 577.

861.77/2062 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, May 4, 1921—10 a.m.

[Received May 7—9:38 a.m.]

Chinese military adopting attitude of extreme aggression with reference to Chinese Eastern as follows: (1) heavy concentration of troops in North Manchuria; (2) extensive requisitions for railway quarters absolutely essential for housing railway employees; (3) trains provided on demand of any Chinese officer without reference to management or Technical Board thereby placing train movement in the hands of Chinese military; (4) confiscation of maps and records of disbanded Manchurian-Russian guard, property of railway. Am insisting in connection with clause 3 that train movement excepting actual military operations must remain in the hands of management and Technical Board. In connection with clause 4 propose to take over maps and records of liquidated Russian railway activities North Manchuria for safekeeping. Has the Department any instructions?

JOHNSON

861.77/2077

The British Chargé (Chilton) to the Secretary of State

No. 370

WASHINGTON, May 14, 1921.

MY DEAR MR. SECRETARY: In your letter to the Ambassador of the 25th ultimo you were good enough to enquire whether His Excellency had yet received from His Government any definite indication of its disposition with respect to the American proposal for the reorganization of the international control of the Chinese Eastern Railway. His Majesty's Government have been waiting for an expression of views from their representatives at Peking and Tokio. These have been received and I hasten to give you below a summary of the conclusions reached:

Both His Majesty's Ambassador at Tokio and His Majesty's Minister at Peking are convinced that there will be strong opposition to this proposal on the part both of the Japanese Government and of the Chinese Government who are opposed to anything which tends to increase the international control of the Railway. His Majesty's Ambassador at Tokio reports that the Japanese Government favour the retention of both the Allied Railway Committee at Vladivostok and the Allied Technical Board at Harbin, that they do not believe that the railway can be run at a profit and that they are

considering whether they should contribute further funds for its maintenance.

The path is therefore beset with peculiar difficulties and it might be wiser to avoid raising awkward issues at this juncture with both China and Japan whose consent to the scheme certainly seems a necessary pre-requisite to the successful introduction of a new system.

In the circumstances, His Majesty's Government feel that, before proceeding further in the matter, the United States Government might be well advised to consider the advisability of first sounding the various Governments concerned, especially the Governments of Japan and China. So far as His Majesty's Government are concerned, they are quite prepared in general principal to fall in with the American proposals, provided that the other Powers also agree and subject to a subsequent discussion of matters of detail. In short, His Majesty's Government would welcome the introduction of this scheme if it could be brought into force but they are inclined to doubt whether, practically speaking, it could be so enforced in existing circumstances.

Believe me [etc.]

H. G. CHILTON

861.77/2082a

*The Secretary of State to the Ambassador in France (Wallace)*⁹⁶

No. 844

WASHINGTON, *May 16, 1921.*

SIR: In reference to the Department's telegram No. 51, of January 20, 6 p.m., to London, repeated to you as Department's No. 53,⁹⁷ and to Department's No. 97, of February 18, 2 p.m., there is enclosed herewith a copy of a memorandum⁹⁸ containing the tentative, amended plan for supervision of the Chinese Eastern Railway.

A memorandum containing the substance of this plan was handed to the British Ambassador on Jan. 14, 1921. On February 24, 1921, in a conversation with the former Secretary of State, the British Ambassador stated that his Government was willing to cooperate in this matter but was unable to put up any money. He said that the United States must take the lead and that the British would follow; that with minor amendments the proposed plan would be satisfactory; and that he would be glad to take up the matter in the near future.

⁹⁶ The same, *mutatis mutandis*, to the Chargé in Japan as no. 469; to the Minister in China as no. 189, with necessary changes in fourth paragraph; and first paragraph and enclosure only to the Chargé in Great Britain as no. 1346 (file no. 861.77/2082 b, c, d).

⁹⁷ See footnote 76, p. 564.

⁹⁸ See Department's memorandum of Jan. 13, p. 564.

As nothing further was heard from the British Government for a month, the Secretary of State addressed a note to the British Ambassador on March 24, 1921, enclosing a memorandum setting forth the revised plan, of which a copy is enclosed herewith. The note to the British Ambassador stated that the Secretary of State would "welcome any such comments or suggestions as would in your opinion facilitate a full and frank understanding between our two Governments as to the course to be pursued by them in reference to the somewhat critical situation in which the Chinese Eastern Railway is [now] placed."

On April 12th the American Minister at Peking telegraphed the Department that the British Government had referred this matter to the British Legation in Peking with instructions to report its views after consultation with our Legation. The Department instructed the Minister at Peking to avoid discussions of this matter with others than the British Legation, but to endeavor to impress upon the British Minister the importance that this Government attaches to British cooperation in this project, which, in the view of this Government, is of fundamental importance to the development of both Manchuria and Siberia.

On April 25th the Secretary of State again addressed a note to the British Ambassador inquiring whether his Government had given any definite indication as to its disposition with respect to the new proposal. It pointed out the apparent identity of views between the British and American Governments as to the purposes to be sought and the general methods to be followed. The note also stated that, owing to the increased difficulties encountered in the operation of the railway, the Secretary felt it necessary to ask Mr. John F. Stevens to return to Manchuria to resume in person the task of controlling the operation of the line. No reply has as yet been received to this inquiry.⁹⁹ The Embassy at London was also instructed at the same time to take up the matter with the British Foreign Office.

The activities outlined above have been entirely informal in character and represent an effort to secure British cooperation as a basis for formal negotiations with the interested powers.

This information is strictly confidential and is being forwarded to you with the idea of keeping you well informed so that should the negotiations reach the stage when representations to the French Government are deemed advisable, you would be acquainted with the essential facts.

I am [etc.]

For the Secretary of State:

F. M. DEARING

⁹⁹ This instruction was drafted before receipt of note no. 370, of May 14, 1921, from the British Chargé, *supra*.

861.77/2043 : Telegram

The Secretary of State to the Minister in China (Crane)

WASHINGTON, May 17, 1921—noon.

147. Your 154, April 13, 5 p.m., and Johnson's May 4, 10 a.m., which you forwarded through Tokyo.

You may, preferably in accord with your British, French and Japanese colleagues, call the attention of the Chinese Government to the assurances of Minister of Communications to Stevens and Peck¹ in their conversation of October 26th, and in writing to Mr. Stevens on November 4th,² that supplementary agreement of October 2, 1920,³ would not effect the slightest change in control of the Technical Board over Chinese Eastern; that China would support Technical Board and hoped it would continue to function; that the Chinese Government's plans include nothing contradictory to the Inter-Allied Agreement, et cetera.

You may express the regret of the Government to learn from Colonel Johnson, American representative on the Technical Board, of certain interference which has occurred with the Technical Board's authority and the operation of the railway by Chinese military forces. Give Chinese Government important facts of interference set forth in Johnson's May 4, 10 a.m., and his mail report delivered to Legation April 29th.⁴

You may say United States Government views with apprehension this interference with Technical Board's authority, which threatens disorganization of the railway.

Point out that United States Government in making above representations is actuated by sincere desire "that the Technical Board continue temporarily to operate the Chinese Eastern Railway with a view to its ultimate return to those in interest without the impairing of any existing rights".

Urge the advisability of the Chinese Government restraining the Chinese military forces from further interference, and issuing the necessary instructions to all Chinese officials to support the Technical Board.

Do not officially protest in regard to interference by the Japanese but use your discretion in asking Japanese Minister about detention of cars by the Japanese.

You should advise Colonel Johnson.⁵

HUGHES

¹ Willys R. Peck, consul, detailed to American Legation in China.

² See telegram no. 573, Nov. 5, from the Chargé in Japan, *Foreign Relations*, 1920, vol. I, p. 725.

³ *Ibid.*, p. 713.

⁴ Report not found in Department files.

⁵ Last two paragraphs paraphrased.

861.77/2077

*The Secretary of State to the Counselor of the British Embassy
(Chilton)*

WASHINGTON, May 20, 1921.

MY DEAR MR. CHILTON: I have received the letter (370) of the 14th instant in which you advise me of the views of the British Government with respect to the proposals for the reorganization of the system of international control of the Chinese Eastern Railway. It is a matter of genuine regret to me that the view taken by the British Government seems to disappoint the hopes of cooperation, in this important phase of the situation in the Far East, which this Government had founded upon the discussions on this subject which have taken place during the past year.

I am [etc.]

CHARLES E. HUGHES

861.77/2082: Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, May 21, 1921—8 p.m.

[Received May 21—6:37 p.m.]

173. Repeating telegram received from the Legation in China:

No. 192, May 21, 10 a.m., replying to no. 114 of April 13, from the Department.⁶ British Legation, I understand, has answered home government that in principle it agreed with the proposal of the American Government but that it anticipated that China and Japan would offer serious opposition. This Legation concurs in this view. The Chinese are increasingly showing independence in matters regarding the Chinese Eastern Railway. Recently Mr. C. C. Wang told the Legation with some concern and surprise that at a time when the duties of the Technical Board should seemingly be nearing a close, the Board seemed to desire to extend its powers. Mr. Wang stated that recently the Technical Board had lost political strength and that this was before he had had for the first time occasion to take issue on certain matters with the American representative on the Board.

BELL

⁶ *Ante*, p. 575.

861.77/2088 : Telegram

The Minister in China (Crane) to the Secretary of State

[Paraphrase]

PEKING, *May 26, 1921—11 a.m.*

[Received May 26—10:23 a.m.]

203. My telegram of May 21, no. 192.⁷ The new Minister of Communications has appointed Wang Director of the Railroad Bureau. This is an important position and the appointment is a promotion for Wang. Wang's position on the Technical Board is to be taken by Liu Ching-shan, his appointee. In further conversation with Wang he referred voluntarily to rumors regarding possible increased power for the Technical Board and international control of the railway. He made the statement that personally he would not of necessity be opposed if there were made a new international agreement. He said, however, that he would be opposed to extending the powers of the Technical Board if the extension were based on the agreement now in operation.

CRANE

861.77/2532

The British Ambassador (Geddes) to the Secretary of State

No. 406

WASHINGTON, *May 27, 1921.*

MY DEAR MR. SECRETARY: In your letter of the 20th instant on the subject of the proposals for the reorganisation of the system of international control of the Chinese Eastern Railway you state that it is a matter of genuine regret to you that the view taken by the British Government, as set forth in my note No. 370 of the 14th instant, seems to disappoint the hopes of co-operation in this important phase of the situation in the Far East. I hasten to assure you that it is far from the desire of His Majesty's Government not to co-operate with the United States Government in this as in various other questions in which the interests of the two countries are involved. You will remember that on the occasion on which you first spoke to me on this matter you explained that you wished that His Majesty's Government would undertake to support the Ameri-

⁷ See telegram no. 173, May 21, from the Chargé in Japan, *supra*.

can proposals with regard to the management of the Chinese Eastern Railway, not only in principle but in detail and, as I understood you, to the point of securing their adoption in spite of any opposition that might arise.

As this was a serious proposal, I felt it to be my duty fully to explore the situation. The position of His Majesty's Government is, as I have already indicated to your predecessor and to you, that they would welcome the introduction of this scheme if it could be brought into force, but they are inclined to believe that proposals for its adoption would encounter strong opposition. It is through no lack of sympathy for the scheme that His Majesty's Government feels that it is impossible to assume so definite an attitude as that suggested by you. It may be that the estimate of the probable opposition is exaggerated but, in the belief that its estimate is approximately correct, His Majesty's Government have ventured to suggest that it might be well for the United States Government to consider the advisability of sounding the various Governments concerned, especially those of China and Japan, so that the next step might be taken with full knowledge of the attitudes adopted by these Governments.

Believe me [etc.]

A. C. GEDDES

861.77/2101b : Telegram

The Secretary of State to the Consul at Vladivostok (Macgowan)

WASHINGTON, June 3, 1921—6 p.m.

You are to assume the duties of American representative on the Inter-Allied Committee July 1, taking over charge from Smith on June 30. This assignment is in addition to your duties as Consul, with no additional compensation. The Department does not believe that these duties will occupy much of your time, and expects you to consult and follow the advice of Mr. John F. Stevens in all important matters which come before the Committee. Stevens is now *en route* to Harbin.

HUGHES

861.77/2100 : Telegram

The Minister in China (Crane) to the Secretary of State

[Paraphrase]

PEKING, June 4, 1921—6 p.m.

[Received June 4—3:27 p.m.]

209. Your cable of May 17, no. 147.

1. I have talked this matter over thoroughly with Liu Ching-shan and with Wang (my telegram No. 203, May 26) as well as with Chang Tso-lin, under whose supreme command are all the Chinese

troops in the Railway Zone, and with the Minister of Communications. Among them all I found a spirit of accommodation. I found them apparently willing to give the Board their hearty cooperation. They admitted the facts in regard to interference but alleged certain of the Board's policies as extenuation in part. Too great influence on the Board's policies by Russians was notably alleged. They pleaded the need for military precautions on the part of the Chinese against the menace of Russian reactionary forces. I am hopeful that Liu will find some solution. He has gone to Harbin to make a month's preliminary investigation. Liu is conciliatory and is pro-American. . . . I have taken occasion to present strongly the need for complete cooperation by China with the Board at the present critical time and for disregarding unimportant differences of opinion as to the details of policy and for giving support to the Board in its efforts to keep the operation of the railway from being interrupted. Apparently the Chinese are inclined to share in this view. On this account until Liu returns I shall not mention the subject to the Japanese, French, or British. For the prestige of the United States it is better to try to arrange the matter alone.

2. In regard to interference by the Japanese I would suggest that if any representations are made they should be made at Tokyo. If the matter were presented here the Japanese Legation could only take the question up with the Japanese Foreign Office. Johnson has been informed and a complete report is being mailed.

CRANE

861.77/2127

The British Ambassador (Geddes) to the Secretary of State

No. 481

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and has the honour to inform him, by direction of his Government, that recently a detailed account of a loan to the Chinese Eastern Railway appeared in the Japanese press and that His Majesty's Ambassador at Tokio enquired of the Minister of Foreign Affairs if it was true. The latter replied that the Japanese Government had nothing to do with any such loan but that he thought that the Russian Manager of the Railway had approached various Japanese banks. His Majesty's Ambassador said that he did not think the manager had any right to negotiate loans independently of International Committees which control the railway and that these latter, so far as he was aware, had not taken any steps about a loan. The Minister for Foreign Affairs admitted that this might be true so far as large loans from Governments were concerned, but said that the South Manchurian railway had ad-

vanced coal to the Chinese Eastern Railway which was equivalent to a loan and that in the same way the manager was probably trying to obtain sufficient money to tide over immediate difficulties.

The Minister for Foreign Affairs added that the Japanese Government were ready to join other Governments interested in a loan. He thought that perhaps France and Great Britain might not care to join in this loan, in which case it might perhaps be divided between the United States and Japan.

In informing the Secretary of State of the above, His Majesty's Ambassador is directed to call his special attention to the immediately preceding paragraph from which, in the opinion of His Majesty's Government, there seems reason to believe that the prospects of a loan by the Consortium are ripening but China's attitude is still unknown.

WASHINGTON, *June 21, 1921.*

861.77/2128 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, *June 24, 1921—11 a.m.*

[Received 12:37 p.m.]

215. Mr. John F. Stevens sends following telegram:

"Have received high honors. My relations extremely cordial. I discussed railroad agreement with Matsudaira,⁸ the Minister of Railways, and the Minister for Foreign Affairs, as the Assistant Secretary of State suggested. With the Minister of Railways and Matsudaira I talked about the necessary amendments.

I told them that my country was extremely anxious to continue to preserve normal conditions regarding the Chinese Eastern Railway in cooperation with the Allies, using the Technical Board for this purpose. I said that this Board should be given more power, these powers to include complete control as to finances and personnel. I also stated that America's only purpose is to preserve the Open Door, to aid Russia, and to stabilize conditions. The persons I have mentioned expressed themselves as being in principle decidedly favorable to this policy. I told them also that the United States was ready to cooperate in any reasonable plan which Japan may wish and which will be just to all parties. If the State Department will take up this question now with the Japanese Government in a vigorous

⁸ Tsuneo Matsudaira, Japanese representative on Inter-Allied Committee.

manner, I think that Government will favorably consider it. Considering attitude of Great Britain, I think that the above is the best course to follow. I expect to reach Harbin on June 28."

BELL

861.77/2131 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, June 27, 1921—4 p.m.

[Received June 27—9:18 a.m.]

232. Discussions under way between Chinese and Russo-Asiatic Bank for issuance by the Railroad Board of Directors of bonds to cover debt of railway to China 5,000,000 taels plus interest totaling about \$10,000,000, such bonds to be handed to China for such disposition as she wishes to make; also issuance bonds about \$10,000,000 for sale open market as occasion requires and upon authorization Board of Directors. Total bonds not to exceed value of Eastern Railway. Negotiations Japanese loan to railway discussed in Reuter interview by Nagao, Japanese member of Technical Board, refuted by Bank and Chinese. Bank maneuvering to oust Latchinoff, vice president, Board of Directors, who is aligned with old Chinese party on railway, replacing him with more progressive man. Stevens fully informed. Mail report follows.⁹

RUDDOCK

861.77/2127

The Department of State to the British Embassy

MEMORANDUM

The Government of the United States desires to express its appreciation of the courtesy of the British Government in supplying the information contained in the memorandum submitted on the 21st instant in which the British Ambassador, on instructions from the British Government, called attention to a reported Japanese loan to the Chinese Eastern Railway.

The Government has noted with particular appreciation the firm stand taken by the British Ambassador at Tokyo in his conversation with the Japanese Minister of Foreign Affairs. The views of the British Government as expressed by Sir Charles Eliot are in harmony with those of this Government, namely, that the Russian

⁹ Not printed.

manager of the Chinese Eastern Railway has no right to negotiate loans independently of the inter-allied control of the railway.

The Government of the United States is gratified to learn that the Japanese Government concurs in this view in so far as large loans from governments are concerned, and is ready to join with other interested governments in arranging a loan to the Chinese Eastern Railway.

The substance of the British Ambassador's memorandum has been cabled to Mr. John F. Stevens, President of the Inter-Allied Technical Board of the Chinese Eastern Railway and his suggestions and recommendations solicited.

WASHINGTON, *June 28, 1921.*

861.77/2131 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, *June 28, 1921—5 p.m.*

181. Your 232, June 27, 4 p.m.

Inquire of Chinese Government whether you have been informed correctly regarding the discussions under way between Chinese authorities and Russo-Asiatic Bank. If so, does Chinese Government propose to cooperate with the Allied Technical Board in this matter?

Inform Department, Tokio Embassy and Stevens of Chinese Government's reply.

HUGHES

861.77/2143 : Telegram

The President of the Technical Board (Stevens) to the Secretary of State

HARBIN, *July 6, 1921—5 p.m.*

[Received July 7—5:27 a.m.]

Your July 1, 6 p.m.¹⁰ Statement that the Russian manager approached Japanese banks probably not true. Technical Board will take the stand manager has no right to negotiate loan without the consent of Board. Statement South Manchuria Railway has advanced coal true. Chinese Eastern at the present time owes South

¹⁰ Not printed; it contained summary of note no. 481, June 21, from the British Ambassador, p. 587, with instructions to "Cable your comment to Department, Tokyo and Peking." (File no. 861.77/2137.)

Manchuria 2,000,000 yen but the latter repeatedly declares no hurry for payment . . . By reason of failure of Allies to pay military transportation railway urgently needs \$10,000,000 to pay debts, provide safe working capital, and for contingencies. Therefore, I approve Japanese suggestion of Allies loan but only to be expended Technical Board control. If such loan not made am certain big bond issue taels will be made. Have cabled Tokyo, Peking but advise the Department that I have no safe code either place. Did the Department receive my cipher telegram June 23 from Tokyo? ¹¹

STEVENS

861.77/2146 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, July 9, 1921—4 p.m.

[Received July 9—12:05 p.m.]

238. Following telegram from Peking:

“249. July 8, 6 p.m. Your 181, June 28, 5 p.m. Information confirmed, Board of Directors has now approved in principle issue up to about 25 million bonds of which 13 million to go to the Chinese Government. Exact amount still undetermined, rate of interest probably 5 percent, heavy discount, details to be settled in Harbin. . . . Vice President Latchinoff replaced on Board by a friend of Ostrougoff. Chinese Government while willing assure cooperation with the Technical Board in general preferential [*sic*] is apparently not disposed to give blanket assurance support views of the Board in regard to the bond issue without more detailed information as to such. Am requesting further information on that point from Stevens. Shall report further.”

BELL

861.77/2146 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 11, 1921—5 p.m.

192. Your telegram 249, July 8, 6 p.m.¹²

Impress upon Chinese Government inadvisability of authorizing any financial commitments which would alter status of rights and interests in Chinese Eastern Railway.

HUGHES

¹¹ Apparently refers to no. 215, June 24, 11 a.m., p. 588.

¹² See telegram no. 238, July 9, from the Chargé in Japan, *supra*.

861.77/2151 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

PEKING, July 13, 1921—noon.

[Received July 13—9:10 a.m.]

258. My telegram no. 249, July 8th, 6 p.m.¹³ Stevens defines cooperation as recognition by Chinese Government of the authority of Technical Board in all financial matters in connection with the railway. I have so described it to the Minister of Communications who declined to give assurance immediately. He has summoned a conference to consider the question. I suggest it would be very desirable that the British Government instruct its Legation here to make similar statement to the Chinese Government. Your telegram number 192, July 11, 5 p.m. What has American Government to offer in place of the proposed issue? Railway needs funds. Is the Technical Board or the Governments parties thereto prepared to furnish funds?

RUDDOCK

861.77/2170a

The Department of State to the Chinese Legation

MEMORANDUM

The Department of State is informed that the Board of Directors of the Chinese Eastern Railway has approved in principle an issue of bonds by the railway to an amount of approximately 25,000,000 taels. A portion of the bonds, it is reported, will be delivered to the Chinese Government, in pursuance, it is presumed, of the supplementary agreement to the contract for the construction and operation of the Chinese Eastern Railway, concluded October 2, 1920,¹⁴ by the Chinese Minister of Communications with representatives of the Russo-Asiatic Bank. As the plan is reported to the State Department, the remainder of the bonds will be disposed of in the open market in accordance with the requirements of the railway.

It is understood that the action of the Board of Directors has been taken independently of the Inter-Allied Technical Board.

The purpose of the Inter-Allied agreement for the supervision of the Chinese Eastern and Trans-Siberian Railways, under which the

¹³ See telegram no. 238, July 9, from the Chargé in Japan, p. 591.

¹⁴ *Foreign Relations*, 1920, vol. I, p. 713.

Inter-Allied Technical Board operates, is, it will be recalled, to operate the railways with a view to their ultimate return to those in interest without the impairing of any existing rights. Under this plan the Technical Board is charged with administering the technical and economic management of the railways.

It will be recalled that, shortly after the conclusion of the supplementary agreement of October 2, 1920, Mr. John F. Stevens, Chairman of the Inter-Allied Technical Board, discussed personally with the Chinese Minister of Communications at Peking the effect of this agreement upon the Inter-Allied supervision of the railway and upon the position of the Technical Board.

The Chinese Minister of Communications said on this occasion, as subsequently confirmed by him in a letter addressed to Mr. Stevens, under date of November 4, 1920,¹⁵ that the supplementary agreement in no way affected the continuance of the Technical Board or its power of control over the Chinese Eastern Railway. The Minister of Communications expressed the hope of the Chinese Government that the Technical Board would, as theretofore, continue to execute its functions in the manner provided for in the Inter-Allied agreement.

In these circumstances it is difficult for the United States to believe that the Chinese Government has lent its approval to the reported action of the Board of Directors of the railway in projecting a large bond issue without seeking the concurrence of Mr. Stevens and the other members of the Inter-Allied Technical Board.

The bonds proposed to be issued will be secured, it is understood, by a general lien upon all the property and assets of the Chinese Eastern Railway. It is to be noted that the ownership of the bonds would therefore constitute an instrument of potential control over the future operation and maintenance of the railway. The way would be opened, in fact, for an alteration in the status of the railway which might ultimately complicate the question of the interests of China.

If it is necessary to obtain funds for the maintenance of the railway, through bond issues or otherwise, the Government of the United States will be glad to receive the recommendations of the Inter-Allied Technical Board on the subject, or to consult in reference thereto with the Government of China and the other Governments concerned.

WASHINGTON, *July 14, 1921.*

¹⁵ See telegram no. 573, Nov. 5, 1920, from the Chargé in Japan, *ibid.*, p. 725.

861.77/2170c : Telegram

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

WASHINGTON, July 15, 1921—6 p.m.

405. Following is the substance of a memorandum handed yesterday to the Chinese Minister at Washington. Inform Embassy, Paris, by mail.

[Here follows summary of memorandum to the Chinese Legation printed *supra*.]

Inform Foreign Office and suggest that the British Minister at Peking be instructed to support this view with the Chinese Government. The American representatives at Peking and Tokyo are being instructed to advise their British colleagues.

HUGHES

861.77/2170b : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, July 15, 1921—6 p.m.

111. Following is the substance of memorandum handed yesterday to the Chinese Minister at Washington:

[Here follows summary of memorandum to the Chinese Legation printed on page 592.]

Embassy at London instructed to advise Foreign Office of foregoing and suggest that British Minister at Peking be instructed to support the views set forth. Foreign Office also informed that American representatives at Peking and Tokyo will advise their British colleagues.

Repeat to Peking No. 199 and Stevens.

HUGHES

861.77/2156 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, July 16, 1921—11 a.m.

[Received July 16—4:54 a.m.]

248. The following from Peking:

“260. July 16, 11 a.m. Your 192, July 11, 5 p.m. Cooperation promised by Minister of Communication[s], bond issue abandoned for the present. Despatch follows.¹⁶ Stevens informed.”

BELL

¹⁶ Not printed.

861.77/2176 : Telegram

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

LONDON, *July 25, 1921—1 p.m.*

[Received July 25—12:07 p.m.]

611. Your telegrams 405, July 15, 5 [6] p.m. and 407, July 16, 1 p.m.¹⁷ Foreign Office states that British Minister at Peking has been instructed in the event of the question of the bond issue being raised again by the Chinese Minister of Communications to support view of the United States Government as laid down in memorandum handed to the Chinese Minister at Washington on July 14, 1921.

HARVEY

861.77/2184

Messrs. J. P. Morgan & Company to the Secretary of State

NEW YORK, *August 2, 1921.*

[Received August 3.]

SIR: We beg to acknowledge receipt of your letter of the 2nd ult.,¹⁸ enclosing paraphrase of a recent memorandum from the British Ambassador¹⁹ regarding the possibility of a Consortium loan to the Chinese Eastern Railway. This is of great interest by reason of the fact that this memorandum indicates that the attitude of the Japanese Government has materially changed since October last when, if its views were represented by the representatives of the Japanese banking group, it was made plain that the cooperation of Japan in any loan for financing the Chinese Eastern was more than problematical. In this connection, we have just received from Messrs. Morgan, Grenfell & Co., London, copy of a letter addressed to them by Sir Charles Addis²⁰ dated June 29th, a copy of which,¹⁸ together with our reply,¹⁸ is enclosed herewith.

We feel that for the long future it would be altogether appropriate for the Consortium, provided China finally determines that it wishes the Consortium to function, to undertake a financial operation covering the Chinese Eastern Railway; but until such time, and until the financial position of the railway itself makes a better exhibit, we think there is little immediate possibility of offering in the United States a loan to this railway. The American Group, in offering any Far Eastern loan to American investors, must exercise

¹⁷ Latter not printed.

¹⁸ Not printed.

¹⁹ See p. 587.

²⁰ Representative of British banking group.

the greatest caution and assure itself that such a loan shall be based upon sound operation and adequate security. In these two respects unfortunately at the present time the Chinese Eastern Railway does not come up to specifications. It is true that in a situation of this kind Japanese bankers are sometimes able to proceed, but only under a guaranty on the part of their Government which the American Group would deem entirely unfitting to suggest to the American Government.

Earnestly trusting, however, that you will keep us fully informed of any further developments in this matter, we are

Respectfully,

J. P. MORGAN & Co.
For the American Group

861.77/2167 : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, August 2, 1921—5 p.m.

122. Your despatch 873, June 27, 1921.²¹ In view of Stevens' recommendations, and the British Government's attitude, Department believes the time opportune to suggest to the Japanese Government the reorganization of the supervision of the Chinese Eastern Railway. You will therefore informally present to the Japanese Foreign Office the text of the proposed plan which was forwarded to you as an enclosure in Department's despatch No. 469, May 16, 1921,²² omitting the penultimate paragraph beginning with the words "concerning the financial condition" and ending with the words "with full executive authority vested in its President". And you will say that the Japanese Government is being thus informally approached in the hope of establishing an identity of views in advance of more general discussions; in the same manner in which the original agreement was arrived at in January, 1919.

Advise Peking and Stevens, for their confidential information only, that you have taken this action.

HUGHES

861.77/2184a : Telegram

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

WASHINGTON, August 2, 1921—5 p.m.

438. Department's despatches No. 1346, May 16, 1921,²² and 1354, May 23, 1921.²¹ You will inform the British Foreign Office that in view of the position of the British Government and of a

²¹ Not printed.

²² See footnote 96, p. 581.

recommendation from John F. Stevens, the Department believes the time opportune to suggest to the Japanese Government the reorganization of the supervision of the Chinese Eastern Railway. You may say that the Department has today instructed the Embassy at Tokyo to present informally to the Japanese Foreign Office the text of the proposed plan which was forwarded to the British Ambassador March 24, 1921, (and to you in Department's No. 1346, May 16), omitting the penultimate paragraph beginning with the words "concerning the financial condition" and ending with the words "with full executive authority vested in its President."

Inform the Foreign Office that, in view of the British Government's suggestion in the letter dated May 14, 1921, from Chargé Chilton,²³ the Japanese Government is being approached informally in the hope of establishing an identity of views in advance of more general discussions.

In view of the British Government's approval of the plan in principle (see Chilton's letter enclosed in Department's No. 1354, May 23, 1921), you will express the Department's hope that the Foreign Office may find it possible to instruct its Ambassador at Tokyo to intimate to the Japanese Government in support of the proposal that the British Government would welcome the introduction of such a plan.

Inform Paris of the action taken for the Embassy's confidential information.

HUGHES

861.77/2177: Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, August 3, 1921—6 p.m.

123. Department's No. 111, July 15, 6 p.m. Chinese Government has replied: ²⁴

"1. As to cooperation. The Chinese Government still respects, as heretofore, the Inter-Allied Agreement about the Technical Board [and agrees to cooperate with the Technical Board] to the utmost of its ability. 2. As to the bond issue. Owing to the increase of revenue of the railway in comparison with preceding periods, it is not necessary for the present to put out an issue of bonds. There is no change in the policy of the Chinese Government with regard to the Chinese Eastern Railway."

Repeat to Stevens and Peking and ask Stevens:

"Is Chinese statement in accord with your ideas, namely, that no issue of bonds is necessary at present? If loan is necessary what

²³ *Ante*, p. 580.

²⁴ Memorandum from the Chinese Legation, dated July 23, not printed. The bracketed words appear in the memorandum, but were omitted in this telegram.

recommendations do you make regarding size of loan, terms of bonds, and security for loan which would be principal factor in the event of flotation?"

HUGHES

861.77/2194 : Telegram

The Chargé in China (Ruddock) to the Secretary of State

[Paraphrase]

PEKING, August 6, 1921—1 p.m.

[Received August 6—9:49 a.m.]

280. I am informed orally by the Minister for Foreign Affairs that he has apprehension with regard to the ideas of our Government as to the future of the Chinese Eastern Railway. He requests that we give him a written statement regarding this. This telegram is followed by despatch.²⁷

RUDDOCK

861.77/2184

The Secretary of State to Messrs. J. P. Morgan & Company

WASHINGTON, August 8, 1921.

DEAR SIR: I beg to acknowledge receipt of your letter, on behalf of the American Group of the Chinese Consortium,²⁸ with reference to the proposed loan to the Chinese Eastern Railway. I greatly regret that the American Group has reached this decision, as I had hoped that an opportunity would be offered through the Consortium to put the Chinese Eastern Railway upon a sound basis. It is the more regrettable because of the apparently favorable attitude taken by Sir Charles Addis in writing to Morgan Grenfell and Company. I note that he says that "in view of the international importance of the line we should remain willing to render financial support in terms of Article 4 of the Consortium Agreement, i.e., 'on the principle of complete equality in every respect.'" The international importance of the Chinese Eastern Railway is quite obvious, and I had hoped that through adequate financial support it might be made an important instrumentality of our "open door" policy.

I remain [etc.]

CHARLES E. HUGHES

²⁷ Not printed.

²⁸ *Ante*, p. 595.

861.77/2196 : Telegram

The President of the Technical Board (Stevens) to the Secretary of State

HARBIN, August 9, 1921—10 a.m.

[Received 2:38 p.m.]

In reference to the note of the Department to the Chinese Government 4th [14th] of July,²⁹ every movement of the Chinese Government clearly shows its purposes to take railway regardless of Russian past, present, future rights; if it is successful no doubt can exist into what hands it will fall. I suggest Technical Board passing resolution promising Allied loan under restrictions. British representative personally thoroughly agrees with me but is ordered by British Legation not to officially approve as such action involves matters of policy; if deemed expedient I suggest London be requested to send him instructions to support resolution. French representative says that he has not had official notice that the bond issue has been stopped; if such is the case he will support. Russian representative as well as Russian members of Board of Directors would consent; the latter and the Russian manager have requested me to make such loan. Attitude of Japanese representative uncertain. Chinese representative and the Board of Directors as a body, being bulldozed completely by the Chinese, will oppose as they want nothing placed in way of their schemes; I suggest pressure from the powers will make them acquiesce. The situation is very delicate for me and I urgently request prompt answer.

STEVENS

861.77/2212

The Chief of the Division of Far Eastern Affairs, Department of State (MacMurray) to the Secretary of State

[WASHINGTON,] August 10, 1921.

MR. SECRETARY: The Chinese Minister of Foreign Affairs has asked the Legation at Peking for a written statement of the ideas of the United States Government regarding the future of the Chinese Eastern Railway. (See attached telegram, 861.77/2194³⁰).

Pending a reply to our recent informal note to the Japanese Foreign Office³¹ presenting the amended plan for allied control of

²⁹ *Ante*, p. 592.³⁰ No. 280, Aug. 6, from the Chargé in China, p. 598.³¹ See telegram no. 122, Aug. 2, to the Chargé in Japan, p. 596.

the Chinese Eastern Railway, it is believed such a written statement would be unwise. Apparently the Japanese have informed the Chinese of our proposal, and the Chinese feel that we are taking action regarding the Chinese Eastern Railway while keeping them in ignorance.

Instead of a written statement it is suggested that you quiet their apprehensions by pointing out to the Chinese Minister in a personal interview:

1. That the object of the efforts of the United States regarding the Railway has been and continues to be the preservation of the Chinese and Russian rights pertaining thereto.

2. That the United States is very much interested, not only in keeping the railway running, but also in seeing removed all obstacles to its efficient operation.

3. That the Chinese Government need feel no apprehension that any ideas of the United States regarding the Railway will in any way be detrimental to Chinese rights. It is hoped that the Chinese Minister will reassure the Minister of Foreign Affairs in the above sense.³²

MACM[URRAY]

861.77/2200 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, August 11, 1921—4 p.m.

[Received August 12—3:47 a.m.]

272. Your 123, August 3, 6 p.m. Following from Stevens:

"August 10, 10 a.m. Replying to Department's telegram August 3, 6 p.m. 1st. There is great necessity for financial aid whether by an issue of bonds or otherwise. 2d. The loan is necessary. 3d. Amount \$10,000,000 gold 15-year 8 percent bonds redeemable after 5 years at 105. Security, mortgage on all movable and immovable property of company wherever it may be. Very conservative estimate value \$100,000,000 gold, cost much more. With normal conditions efficient management, certain money-maker. It may be claims of former Russian Government might constitute prior lien. I now believe that bonds signed by president of railway who was appointed by the Chinese Government under the treaty of September 8th, 1896, would be legal and if countersigned by Technical Board that by reason of Allied railway agreement they would then be guaranteed by the various nations. Department will understand that the security noted represents merely my opinion, as in view of the situa-

³² In a Department memorandum of Aug. 27, Mr. W. H. Beck, private secretary to the Secretary of State, states: "The Secretary talked with the Chinese Minister about this yesterday and informed him in substance what is set forth in Mr. MacMurray's memorandum of August 10th. The Minister made no promise to transmit the information to Peking, but it is assumed that he will do so since he was asked to call on the Secretary."

tion as stated in my cipher telegram August 9, 10 a. m., matter cannot safely be taken up here until the placing loan assured and the Chinese Government properly persuaded.[⁷⁷]

BELL

861.77/2199 : Telegram

The President of the Technical Board (Stevens) to the Secretary of State

HARBIN, August 11, 1921—10 a. m.

[Received 4:38 p. m.]

In connection with my cipher telegram August 10, 10 a. m., through Tokyo³³ in regard to the loan, following conditions must obtain:

1st. Technical Board must have control over all receipts and expenditures. 2d. Proceeds of loan to be placed in the hands of Board which shall have sole charge of expenditure for the benefit of railway in its judgment. 3d. Other than members of Board, no person shall be retained in the service of railway in opposition to determinations of that nature [*Board*]. The last condition is to prevent the Chinese from loading payroll with high positions for their men as they are now doing.

STEVENS

861.77/2206 : Telegram

The President of the Technical Board (Stevens) to the Secretary of State

HARBIN, August 16, 1921—noon.

[Received 1:47 p. m.]

Hayakawa, the new president of South Manchuria Railway, has just visited Harbin. Elaborate entertainments which are always the preliminary to intrigues in the Far East. Strongly urged me to approve change of gauge Changchun-Harbin to South Manchuria gauge, to which I replied would require serious consideration. This matter was up in the year 1919 but I succeeded in quashing as the files of the Department will show; ³⁴ such a proposition must not be entertained. I anticipate Japan will seek to make it a condition of negotiations with Allies regarding Technical Board and financiering. . . . He [Hayakawa] has been given unlimited powers to decide tactics main railway line and the Army ordered to show absolute submission to him.

STEVENS

³³ See telegram no. 272, Aug. 11, from the Chargé in Japan, *supra*.

³⁴ See telegrams of Apr. 17, 1919, from the Ambassador in Japan, and of Aug. 11, 1919, from the President of the Technical Board, *Foreign Relations*, 1919, vol. I, pp. 606 and 612, respectively.

861.77/2206 : Telegram

The Secretary of State to the Consul at Harbin (Jenkins)

WASHINGTON, August 17, 1921—4 p.m.

For Stevens.

Your August 6th [16th] noon. Department approves your attitude. Report immediately by telegraph any further attempts to bring about change of gauge.

HUGHES

861.77/2214

Messrs. J. P. Morgan & Company to the Secretary of State

NEW YORK, August 23, 1921.

[Received August 27.]

SIR: Replying to your letter of the 18th inst.,³⁵ addressed to Mr. Lamont ³⁶ and which in his absence, for a week or ten days, we are answering, we beg to advise that we have read with great interest the suggestions of Mr. John F. Stevens ³⁷ relative to the financing desired on behalf of the Chinese Eastern Railway, in the amount of \$10,000,000. Gold.

We appreciate to the full the importance of this particular situation, but a question we have not been able to solve is the fair presentation of the matter to the investing public in such a way as would indicate the certainty of the interest payments on the bonds.

According to information taken from *Millard's Review*, the results from the operation of the railway for the twelve years from 1903 to 1914 inclusive, indicated a net operating deficit in every year, and a combined operating deficit for such years of 182,000,000 rubles. The four following years reported a total net operating revenue of 83,000,000 rubles, but the showing for 1919, apparently, was most unsatisfactory, and that for 1920 is not available.

We also understand that under a contract made in October, 1920 provision was made for the issuance by the Railway to the Chinese Government of bonds to be secured by a first mortgage on the entire railway and rolling stock, the amount entitled Kp. Taels, 5,000,000. We would appreciate your advising us whether this arrangement was ever consummated as it would make even more difficult the sale of the proposed issue of bonds.

In view of the income statement which should be stated in the prospectus, we do not believe that the sale of the issue could be successfully undertaken unless there were to be pledged some additional

³⁵ Not printed.³⁶ Thomas W. Lamont, member of the firm of J. P. Morgan & Co.³⁷ See telegram no. 272, Aug. 11, from the Chargé in Japan, p. 600.

security for the payment of charges, such additional revenue to be collected under such proper supervision and control as would convince the investor of the certainty of interest payments.

In this connection, we submit for your consideration the question whether the Chinese Government would be prepared to pledge the surplus revenues of all the Government railways in China, over and above the charges on the bonds issued for railway construction.

We should be glad to learn any views you may care to express regarding the feasibility of pledging such surplus revenues of the railways in China, and any later information as to income which may be at your disposal.

Yours very truly,

J. P. MORGAN & Co.
For the American Group

861.77/2233

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

No. 400

LONDON, August 24, 1921.

[Received September 11.]

SIR: With reference to the Department's telegraphic instruction No. 405, of July 15, 5 [6] p.m.,³⁸ on the subject of the reorganization of the supervision of the Chinese Eastern Railway, I have the honor to transmit herewith enclosed a copy of a Note, No. F. 2970/45/10, received from the Foreign Office in answer to my representations of August 8th.³⁹

I have [etc.]

For the Ambassador:

POST WHEELER
Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

No. F. 2970/45/10

LONDON, August 16, 1921.

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of Mr. Post Wheeler's Note No. 108 of August 8th informing me, on the instructions of the State Department, that the American Ambassador at Tokyo has been directed to approach the Japanese

³⁸ *Ante*, p. 594.

³⁹ Not found in Department files; see telegram no. 438, Aug. 2, to the Ambassador in Great Britain, p. 596.

Government in the matter of the reorganisation of the Chinese Eastern Railway and that they will be sounded informally in the hope of establishing identity of views in advance of more general discussions.

2. It has afforded me pleasure to telegraph instructions to His Majesty's Ambassador at Tokyo to associate himself with his United States Colleague in this matter at his discretion; and I trust that these informal proceedings may form the basis of some workable arrangement as regards the affairs of the railway.

3. In this connection the State Department will no doubt recollect that in the original exchange of views between our two Governments I thought it desirable to emphasise the desirability of consulting not only the Japanese Government but also that of China. It would be a matter of interest to His Majesty's Government to learn whether the United States Government have in fact sounded the Chinese Government: and if so, with what result.

I have [etc.]

(For the Secretary of State)

VICTOR WELLESLEY

861.77/2245 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

Tokyo, September 21, 1921—11 a.m.

[Received September 21—6:06 a.m.]

310. Following from Vladivostok:

“September 20, 11 a.m. Manager of the Chinese Eastern Railroad has received information that the Japanese are offering local authorities at Vladivostok loan \$5,000,000 provided Usury Railway pledged as security.

Japanese control of the Usury Railway would completely bottle up Chinese Eastern.”

WARREN

861.77/2245 : Telegram

The Secretary of State to the Ambassador in Japan (Warren)

WASHINGTON, September 21, 1921—5 p.m.

158. Communicate discreetly to the Foreign Office the substance of your 310, September 21, 11 a.m., and say that as the allied plan for railway supervision includes the Ussuri Railway, and as the operation of the Ussuri and Chinese Eastern Railways must be coordinated, this Government assumes that pending the conclusion of the negotiations now in progress for the continuance of the allied.

agreement the Japanese Government will not approve any change in the status of the Ussuri Railway through the creation of new financial commitments, or otherwise. Keep Stevens informed.

HUGHES

861.77/2251 : Telegram

The President of the Technical Board (Stevens) to the Secretary of State

HARBIN, *September 24, 1921—2 p.m.*

[Received September 24—10:22 a.m.]

Referring to my cable of September 20, 9 a.m.⁴⁰ I have received direct reliable confirmation that the Japanese through the channel of South Manchuria Railway are negotiating for the purchase or the lease of Ussuri Railway. Such an arrangement would have no shadow legality but would be sure to complicate situation very badly and must be prevented. Vladivostok government is favorably disposed and there is probability of consummation of such an arrangement unless action taken to prevent.

STEVENS

861.77/2252 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

TOKYO, *September 24, 1921—4 p.m.*

[Received September 24—10:26 a.m.]

315. Your 158, September 21, 5 p.m. Foreign Office state they have had a report from Vladivostok that a certain Australian is negotiating with (American Banking Corporation?) [for a loan] and have telegraphed Vladivostok and Dairen for further information which they will communicate to me when received. They add that Japanese Government has nothing to do with the matter and that it is against their policy to finance or to negotiate with Merkulov's government as distinct from Chita. Stevens informed.

WARREN

861.77/2252 : Telegram

The Secretary of State to the Ambassador in Japan (Warren)

[Paraphrase]

WASHINGTON, *September 27, 1921—5 p.m.*

165. Embassy's no. 315, September 24, 4 p.m. Cable from Stevens states that he is reliably informed that negotiations are now being carried on by Japanese to purchase or lease Ussuri Railway, the nego-

⁴⁰ Not printed.

tiations taking place through the channel of the South Manchuria Railway.

Take up as outlined our no. 158, September 21, 5 p.m., with the Japanese Foreign Office.

HUGHES

861.77/2233

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

No. 171

WASHINGTON, September 28, 1921.

SIR: The Department has received your despatch No. 400 of August 24, 1921, enclosing a note from the British Foreign Office relative to the reorganization of the supervision of the Chinese Eastern Railway.

You may inform the British Foreign Office that the Government intends to take up this matter with the Chinese Government but has deemed it advisable, first, to approach Japan. The answer from the Japanese Government is expected in the near future.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

861.77/2258 : Telegram

The President of the Technical Board (Stevens) to the Secretary of State

HARBIN, September 30, 1921—10 a.m.

[Received October 1—6:48 a.m.]

Your cable of September 23, 5 p.m.⁴¹ On September 1st the various nations owed Chinese Eastern following amounts in gold dollars for military transportation: Japan 512,554; China 120,729; England 36,075; Italy 10,114; the United States 16,397; France 452,689; Czechs 3,490,208; Poland 103,727; Servia 20,942; Roumania 88,927; Latvia 13,492. In addition to the above China owes 2,300,000 for military transportation other than Allied. Besides the above the American Red Cross, Young Men's Christian Association, Bureau of Public Information and the Department of State owe 503,344. New statement being forwarded by mail at once.⁴¹

STEVENS

⁴¹Not printed.

861.77/2259 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

TOKYO, October 1, 1921—5 p.m.

[Received October 1—3:46 p.m.]

325. My September 24th, 4 p.m. Foreign Office now state that further inquiries elicit that one Japanese is interested in the matter but that he is not likely to succeed as he has not the support or countenance of the Japanese Government. Also that the Japanese military authorities have nothing to do with the matter.

Referring to Department's no. 165, September 27. Japanese Foreign Office has no information concerning such negotiations and have never heard of them according to the statement by the Vice Minister for Foreign Affairs.

Have informed Stevens.⁴²

WARREN

861.77/2260 : Telegram

The Secretary of State to the Ambassador in Japan (Warren)

WASHINGTON, October 6, 1921—8 p.m.

178. Inform Japanese Foreign Office that this Government has suggested to John F. Stevens the advisability of his being in Washington at the time of the Armament Conference in order that his special knowledge of the affairs of the Chinese Eastern Railway may be directly available, and that this Government is informed that Mr. Stevens is planning to come. The Department has approved Stevens' suggestion that he appoint Colonel Johnson President *pro tempore* of the Technical Board.

Cable Stevens as soon as you have done this and advise him that Department approves appointment of Johnson and that he may now make his plans public.

HUGHES

861.77/2214

The Secretary of State to Messrs. J. P. Morgan & Company

WASHINGTON, October 22, 1921.

GENTLEMEN: The Department has been holding your letter of August 23, 1921, while endeavoring to secure more exact information as to the indebtedness of the Chinese Eastern Railway Company.

⁴² Last two paragraphs paraphrased.

Mr. John F. Stevens, President of the Allied Technical Board of the railway, is now *en route* to the United States with statistics and other information regarding the financial condition of the Chinese Eastern. After his arrival the Department will again consider with the American Group the possibility of a consortium loan.

I am [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

861.77/2288 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

TOKYO, October 24, 1921—10 a.m.

[Received October 24—6:15 a.m.]

355. Your 178, October 6, 8 p.m. Minister for Foreign Affairs informs me that before expressing views on matter Japanese Government wishes to be informed whether [apparent omission] is to appoint Johnson president of Technical Board in place of Stevens or whether he is to be Stevens' personal representative during the latter's absence.

From my conversations with Stevens before he sailed I understood that Johnson would serve as Stevens' personal representative during the latter's absence in the United States and I am informing Foreign Office to that effect.

WARREN

861.77/2301 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

TOKYO, October 29, 1921—10 a.m.

[Received October 29—9:38 a.m.]

363. Limitation of armaments. Embassy's 284, September 1, 5 p.m.⁴³ and [previous]. Following memorandum, dated yesterday, and marked confidential received today from Foreign Office.

"The Japanese Government having carefully examined the memorandum of the Government of the United States containing suggestions in regard to the Chinese Eastern Railroad hereby venture to express frankly their views on the subject and invite thereto the deliberate consideration of the United States Government.

As far as the Japanese Government understand, the main purpose of the United States proposal is to organize a technical board con-

⁴³ Not printed.

sisting of railway experts of the United States, England, France, Japan, Russia and China under joint control of the governments of the powers interested and entrust it not only with the general supervision of the railroad but with the technical and economic administration of the railroad affairs together with the full control over the receipts and disbursements of the company's revenue and also with questions regarding the personnel of the railroad. It appears that under such an arrangement the United States Government intend practically if not in name to substitute the Chinese Eastern Railway Board with the Technical Board in question. If this assumption is correct it constitutes a radical change in the administration of the Chinese Eastern Railway and can scarcely be regarded as a simple question of affording assistance from outside.

It is true that there are various defects in the present administration of the Chinese Eastern Railway efficiency [*sic*] unsuitable to the existence of a railway board in the said railway which being legitimately organized under treaties and other arrangements between Russia and China is entrusted with the supervision and management of the railway, it is believed that any such suggestion as aiming at a radical change in the status of the railway by means of a third party stepping into the relations between these two countries will hardly commend itself to the parties concerned. Further, it is feared that it will not only provoke unnecessarily displeasure on their part but will create comment that it constitutes illegitimate interference or it is a covert attempt to take over the right of supervision of the railroad.

It can hardly be admitted that the actual condition of the railroad is so upset as would permit a third party to propose a radical reorganization of the railroad without inviting a suspicion and displeasure. Frankly speaking the Japanese Government doubt a great deal as to whether there is the need of making a radical change at present in the administration of the Chinese Eastern Railroad. Accordingly they find it difficult to bring themselves to acquiesce in the present suggestion of the United States Government.

It being however the unanimous desire not only of the powers concerned but of the Government and people of Japan who are vitally interested in the Chinese Eastern Railroad to keep it always in a full working [*sic*] minimum cost by assuring the maintenance of and operation of the railroad which occupies a very important position in the system of world traffic and also by further improving its financial condition and general management. The Japanese Government are always ready to render to it in cooperation with other powers concerned any assistance financial and otherwise with this object in view. In, however, such assistance to the railway the Japanese Government are of opinion that it should be done in full recognition of the legal and practical existence of the Chinese Eastern Railway Board which is responsible for the supervision and management of this railway and also with full respect for its present status. Accordingly they are disposed to think it advisable to adopt the following plan instead of the United States proposal now under review.

1. The Chinese Eastern Railway Board shall have direct control of the railway; and the Technical Board organized under the supervision of the Governments of the United States, England, France, China and Japan and consisting of the railway experts of the above-mentioned Nations shall in case of need give technical and financial assistance to the Chinese Eastern Railway.

2. The members of the Technical Board shall have equal right, elect the president and vice president of the Board with a view to harmonious cooperation with one another in carrying out the mission of the Board and in maintaining the uniformity of the conduct of the railway business.

Further, it is to be observed that in order to let the Chinese Eastern Railway fully discharge its functions as a great organ of world traffic it is necessary to consider together with the improvement of that railway questions such as effecting its connection with the Trans-Siberian Railway west of Manchuli and of the Ussuri Railway connecting Vladivostok and the eastern end of the Chinese Eastern Railway.⁴⁴

Copy of memorandum being sent to Peking.

WARREN

861.77/2282

*The Secretary of State to the Ambassador in France (Herrick)*⁴⁴

No. 93

WASHINGTON, November 2, 1921.

SIR: Mr. John F. Stevens reported to the Department by telegraph on October 14, 1921,⁴⁵ that he was advised by the French Consul at Harbin that the French Government is in thorough accord with the plan for an international control of the Chinese Eastern Railway but feels that the Russo-Asiatic Bank, which the French Government controls, should be appointed, as heretofore, the financial agent of the railway. Mr. Stevens adds that he perceives no objection to such an arrangement, and that the choice of a bank of any other nationality would be certain to create misunderstanding which should be avoided as far as possible.

According to information obtained by the American Chargé d'Affaires at Archangel, Russia, from his French colleague, early in

⁴⁴ The same, Nov. 2, to the Ambassadors in Great Britain (no. 229) and Italy (no. 48); and, Nov. 1, to the Ambassador in Japan (no. 4) and the Minister in China (no. 22), with the substitution of the following for the final paragraph:

"The Department has instructed the American Ambassador at Paris to make inquiry of the Foreign Office concerning the reorganization above mentioned and to report, at as early a date as possible, such information as he may be able to obtain relative to the present legal and financial status of the bank in question. Such information as may be obtained on this subject will be forwarded to you on its receipt."

⁴⁵ Not printed.

1919, a reorganization of the Russo-Asiatic Bank was carried out at Paris in the course of the preceding year, on the basis largely of a "certificate of law and custom" given by a Russian attorney in that city. A translation of this certificate, as furnished by the Chargé d'Affaires at Archangel, is enclosed.⁴⁶

It is understood that the capital of the institution was made to consist of the capital of its foreign branches and of the sums owing from correspondents in Europe and Asia.

You will make discreet inquiry of the Foreign Office concerning the reorganization above mentioned and transmit to the Department, at as early a date as possible, such information as you may be able to obtain relative to the present status, both legal and financial, of the Russo-Asiatic Bank.

I am [etc.]

For the Secretary of State:

F. M. DEARING

861.77/2331a : Telegram

The Secretary of State to the Ambassador in Japan (Warren)

WASHINGTON, November 29, 1921—6 p.m.

205. Repeat following to Caldwell:⁴⁷

Having regard to rumors that the Chita government threatens seizure of the Chinese Eastern to prevent international control, you may intimate to the appropriate authorities informally and unofficially that any measures of international supervision or control which may be decided upon will have for their purpose, as heretofore, a conservation of the legal status of the railway and its ultimate return to those in interest without an impairing of any existing rights.

Repeat to Peking as Dept's 309 for information.

HUGHES

861.77/2343 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

[Paraphrase]

HARBIN, December 5, 1921—5 p.m.

[Received December 7—7:44 p.m.]

For Stevens:

My December 3, 5 p.m.⁴⁶ Representative of Chita government states that conference which was to be held at Manchouli has been

⁴⁶ Not printed.

⁴⁷ Consul John K. Caldwell, on special duty at Chita.

called off and in its place the previous negotiations at Peking regarding commercial relations will be resumed. He says that Far Eastern Republic advises that the question of the Chinese Eastern be allowed to rest until after the discussion at the Washington Conference. . . .

JOHNSON

861.77/2342 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

[Paraphrase]

TOKYO, December 6, 1921—11 a.m.

[Received December 6—6:42 a.m.]

410. Your no. 205 of November 29, 6 p.m. Caldwell sends following, dated December 3, 9 p.m.

“Immediately upon the receipt yesterday of Embassy’s no. 3 of November 30, 5 p.m., which transmitted the Department’s telegram of November 29, 7 [6] p.m., I communicated the contents of your telegram to the Minister for Foreign Affairs. Today I will confer on the same subject with him again. He said that there is no foundation for the rumors and that to thus seize the railway would necessitate military measures which the Far Eastern Republic is not strong enough to attempt even should there be such an encroachment. A disastrous war might result from such an attempt. I believe that there are no grounds for the rumors as regards military seizure of the railway by the Far Eastern Republic. The Minister for Foreign Affairs did state, however, that his Government is conducting negotiations with China for joint operation of the Chinese Eastern. He did not tell me the operating plan or the nature of the negotiations.

The Minister told me his views on the subject of placing the railway under international control. In a few days he will give me in writing a statement which will cover the entire subject. Before doing so he will confer with Moscow by telegraph. He says this is necessary as the rights of the former Russian Government, including those to the Chinese Eastern, have passed to the Soviet Government. I will report the statement in substance by telegraph.[”]

WARREN

861.77/2344 : Telegram

The Ambassador in Japan (Warren) to the Secretary of State

[Extract]

TOKYO, December 9, 1921—1 p.m.

[Received December 9—9:06 a.m.]

413. My 410, December 6, 11 a.m. Following from Caldwell dated December 7, 9 p.m.:

“Supplementing my 9, December 3, 9 p.m. I have received written statement from Minister for Foreign Affairs confirming his verbal statement that officially he considers that only Soviet Russia and China and to some extent Far Eastern Republic have a right to arrange such matters as international control of Chinese Eastern Railway . . . [”]

WARREN

861.77/2366

The Ambassador in France (Herrick) to the Secretary of State

No. 986

PARIS, December 16, 1921.

[Received December 29.]

SIR: In reply to the Department's Instruction No. 93 of November 2nd, relative to the present status of the Russo-Asiatic Bank, I have the honor to report that from inquiry at the Foreign Office I learn that the present status of the bank is uncertain. The reorganization mentioned in the Department's dispatch was carried out and the bank is in possession of a fair amount of funds. The French Government intended at one time to make it a French institution, but found that there were certain disadvantages connected with such a course of action and they have since been marking time, feeling that it would be more desirable to carry on as at present and leave the final settlement of its status until the whole question of the Russian banks comes up for international discussion with the reestablishment of Russia.

I have [etc.]

MYRON T. HERRICK

JAPANESE PROPOSALS FOR A SETTLEMENT OF THE SHANTUNG QUESTION—THEIR REJECTION BY CHINA⁴⁹

793.94/1183-½

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Shidehara), July 21, 1921

[Extract]

The Ambassador then said that he wanted to take this opportunity to express a purely personal point of view; that he was not instructed by his Government in the matter, but he desired to suggest on his own account that it was important that the conference⁵⁰ should be held in an atmosphere as friendly as possible, in order that it should be a success; that to this end it would be very helpful if some of the

⁴⁹ For previous correspondence concerning the Shantung question, see *Foreign Relations*, 1920, vol. I, pp. 814 ff.

⁵⁰ Conference on the Limitation of Armament, convened at Washington Nov. 12, 1921.

important questions could be decided before the conference met, and he wanted to take up with the Secretary the question whether this was possible. The Secretary asked what questions he had in mind, and the Ambassador replied that first he wished to refer to the Shantung situation. The Ambassador said that China had refused to ratify the Treaty of Versailles and denied that Japan had succeeded to the interests of Germany in Shantung; that this was an incorrect position from a legal point of view; that while China had not ratified the treaty and the United States had not ratified the treaty, still the treaty had been ratified by Germany and by Japan and by the other Powers; that with respect to Germany, therefore, her interests had been renounced in favor of Japan, and that if China attempted to take these matters up with Germany, the latter would be compelled to reply that she could not deal with them because she had already parted with her interests; that hence, if the question were to be taken up at all, it would have to be taken up between Japan and China.

Continuing, the Ambassador said that China was taking this position believing that she could have the support of the United States, and was unwilling to discuss the matter with Japan; that, however, if the Secretary, in a friendly way, would suggest to China that it would be agreeable to this country for China to undertake negotiations with Japan, he was sure that his Government would take the matter up with the most generous disposition and make terms which would be entirely satisfactory to China and to all other powers, and that in this way a very troublesome matter could in a short time be cleared up.

The Secretary asked whether the Ambassador was in a position to suggest what sort of terms he thought the Japanese Government would be willing to make. The Ambassador replied that with respect to the railway he thought his Government would be disposed to make the arrangement an equal division between Japan and China, that is, on the basis of fifty-fifty; that with reference to the port, it might be made an open port; that arrangements would be made for the protection of foreigners, including the Japanese; that there were some details, for example, the so-called fortress zone, in which Japan was not especially interested and was entirely willing to relinquish that; that there were certain buildings which Japan was occupying and might desire to obtain, but that these were details which he was quite sure could be dealt with agreeably; that he felt that there was nothing in that situation really in which the reasonable wishes of the Chinese could not be met, and he wanted to know whether it

would be possible for this Government to make a friendly suggestion to China that negotiations should be begun.

The Secretary said that he was very much interested in the suggestion, as he would like to see the Shantung matter satisfactorily settled, and that he would give the suggestion consideration. He then asked what other matters the Ambassador had in mind.

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793.94/1184-1/2

Memorandum by the Secretary of State of a Conversation with the Chinese Minister (Sze), August 11, 1921

The Chinese Minister asked for information with respect to the Conference and was informed that the formal invitation was going out this afternoon; that it would be given to the press this evening; and that a memorandum containing a copy would be furnished the Chinese Minister. The Chinese Minister inquired with regard to conversations as to agenda. The Secretary said that conversations would be had and he hoped that some matters would be disposed of before the Conference; that he saw no reason why certain questions should not be dealt with before the Conference if they could be satisfactorily treated. The Secretary referred to the Shantung question as one of these. He told the Minister that there might possibly be a more advantageous opportunity to deal with it before the Conference inasmuch as Great Britain, France and Italy had ratified the Treaty of Versailles and would find difficulty in dealing with the question at the Conference.

The Chinese Minister said that China was reluctant to be left to deal with the matter in direct negotiation with Japan but that if the United States would act as intermediary and could secure a satisfactory proposition from Japan it would be very helpful. The Secretary said that he would not care to have the United States take the role of a mediator, but inasmuch as the suggestion had been made that this Government might open the matter with China in view of having direct negotiations between Japan and China, there might be a favorable opportunity to inquire as to Japan's proposals.

The Secretary emphasized the importance of not having any information go out from Peking to the effect that the United States would act as mediator in the matter and that it would be better to have the question left in the hands of this Government for the time being.

793.94/1191-½

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Shidehara), August 18, 1921

[Extract]

(3) *Shantung*. The Ambassador asked whether the Secretary had considered the proposal which had been made with respect to Shantung, that is, that this Government should suggest to China that the matter be taken up in direct negotiation between China and Japan.

The Secretary said that he had considered it but found the suggestions which had been made by the Ambassador rather indefinite; that if this Government was to approach China for the purpose of having her enter into negotiations with Japan this Government would naturally desire to know what the conclusion of the negotiations was likely to be; that the Secretary understood that the suggestion was made in the interest of a removal of all causes of possible controversy and that he was taking it up with entire sympathy for this purpose; but that if negotiations were resumed and the outcome were unsatisfactory, the situation would be worse and not better. The Ambassador seemed to agree with this point of view. The Secretary said that if Japan was prepared to deal with the matter in a liberal spirit as the Ambassador had suggested and as the statesmen of Japan had repeatedly stated, there could be no objection to giving this Government full information in the matter; that if this Government felt that the outcome of the negotiations would be satisfactory, it would have no objection to suggesting to China that negotiations should be taken up; while on the other hand if the outcome did not appear to be a desirable one, this Government was not likely to feel that it could take the responsibility of making any suggestions to China as to direct negotiations.

The Ambassador inquired whether this Government would think it necessary to communicate to China the nature of the proposal which might be made, before Japan communicated it directly.

The Secretary said that this Government had constantly in view the substance of the matter and not any mere question of procedure; that if the proposal was not a satisfactory one, this Government would not be disposed to deal with it at all; but that if it were a satisfactory one and Japan desired to have the opportunity of presenting it to China in the first instance, this Government would see no objection to that course, provided it had assurance as to the nature of the proposal to be made. The Secretary said that he thought the whole question turned on the intentions of Japan in

the matter, and that he would welcome a very full statement with respect to these.

The Ambassador said that he was not in a position to make any further statement on behalf of his Government but would make inquiry to see whether he could obtain authority to make a more definite suggestion.

793.94/1198

The Japanese Ambassador (Shidehara) to the Secretary of State

OUTLINE OF THE PROPOSED TERMS OF SETTLEMENT RESPECTING THE SHANTUNG QUESTION ⁵¹

1. The leasehold of Kiaochau and the rights originally granted to Germany with regard to the fifty kilometre zone around the Kiaochau Bay shall be restored to China.

2. The Japanese Government will abandon plans for the establishment of a Japanese Exclusive Settlement or of an International Settlement in Tsingtao: provided that China engages to open of its own accord the entire leased territory of Kiaochau as a port of trade, and to permit the nationals of all foreign countries freely to reside and to carry on commerce, industry, agriculture or any other lawful pursuits within such territory, and that she further undertakes to respect the vested rights of all foreigners.

China shall likewise carry out forthwith the opening of suitable cities and towns within the Province of Shantung for residence and trade of the nationals of all foreign countries.

Regulations for the opening of places under the foregoing clauses shall be determined by the Chinese Government upon consultation with the Powers interested.

3. The Kiaochau-Tsinanfu Railway and all mines appurtenant thereto shall be worked as a joint Sino-Japanese enterprise.

4. Japan will renounce all preferential rights with regard to foreign assistance in persons, capital and material, stipulated in the Sino-German Treaty of March 6, 1898.

5. Rights relating to the extensions of the Kiaochau-Tsinanfu Railway, as well as options for the construction of the Yentai-Weih-sien Railway will be thrown open for the common activity of the International Financial Consortium in China.

6. The status of the Custom House at Tsingtao as forming an integral part of the general customs system of China shall be made clearer than under the German regime.

⁵¹ Text of outline of terms corrected to agree with revised translation received from the Japanese Embassy on Sept. 17.

7. Public property used for administrative purposes within the leased territory of Kiaochau will, in general, be transferred to China: it being understood that the maintenance and operation of public works and establishments shall be previously arranged between the Japanese and Chinese Governments.

8. With a view to arranging detailed plans for carrying into effect the terms of settlement above indicated, and for the purpose of adjusting other matters not embodied therein, the Japanese and Chinese Governments shall appoint their respective commissioners as soon as possible.

9. The Japanese Government have on more than one occasion declared willingness to proceed to the recall of Japanese troops now stationed along the Kiaochau-Tsinanfu Railway upon organization by China of a police force to assume protection of the railway. As soon as the Chinese Government shall have organized such a police force and notified the Japanese Government to that effect, Japanese troops will be ordered to hand over to the Chinese police the charge of the railway protection, and thereupon immediately to withdraw. It is, however, to be understood that the question of the organization of a special police guarding the Kiaochau-Tsinanfu Railway shall be reserved for future consideration between Japan and China.

WASHINGTON, *September 8, 1921.*

793.94/1285

The Japanese Ambassador (Shidehara) to the Secretary of State

WASHINGTON, *September 16, 1921.*

DEAR MR. SECRETARY: I am now in receipt of a telegram from Tokio informing me that the outline of the terms of settlement on the Shantung question, which Japan proposed to China on September 7, and which I had the pleasure of communicating to you, has just been published in a *communiqué* of the Foreign Office at Tokio. The *communiqué* is prefaced by an explanatory statement, copy of which I venture to enclose herewith for your information.

Believe me [etc.]

K. SHIDEHARA

[Enclosure]

Statement by the Japanese Foreign Office

The Japanese Minister at Peking submitted on the seventh instant the following general plan as the basis of the settlement of the Shantung question and, inviting thereto a serious and sincere consideration, once more requested the Chinese Government to enter into

negotiations in this matter along the lines indicated in that plan and to appoint as soon as possible commissioners with a view to arranging detailed plans for carrying into effect the terms of settlement that may be agreed upon.

793.94/1194b : Telegram

The Secretary of State to the Minister in China (Schurman) ⁵³

[Paraphrase]

WASHINGTON, *September 19, 1921—3 p.m.*

No. 263. Ambassador Shidehara some weeks ago very confidentially approached me with the statement that the Japanese Government is extremely anxious to settle the Shantung affair prior to the Washington Conference and is ready to offer a liberal basis of settlement with that end in view. He declared, however, that China obstinately refuses to negotiate; and he expressed the hope that I could see my way to influence China to entertain negotiations. In reply I assured Baron Shidehara that I heartily agreed with him as to the desirability of making a satisfactory settlement at an early date which would make it unnecessary to bring before the Washington Conference an issue which had been so important a question between China and Japan and had been the subject of such strong sentiment and so much public discussion in the United States. I stated, however, that of course the possibility of my using any kind of good offices would be dependent on the nature of the specific terms which might be proposed by the Japanese Government.

Baron Shidehara on September 8 gave me a translation in English of the proposals which he told me Japan had made the previous day to the Government at Peking.⁵⁴ The Ambassador then requested that I suggest to the Chinese Government that it should undertake negotiations on the basis of these proposals. I told him that I would study the Japanese offer to determine whether I would be justified in acceding to his request.

On September 15 Baron Shidehara and I had another conversation in which he asked me what decision I had reached. I told him that I found certain of the proposals obscure, especially the reference in the 2d paragraph to vested interests; the provision in paragraph 6 regarding Tsingtao customs; the qualification in paragraph 7 regarding the surrender of public property and the proviso for consultation as to operating public works in the future. However, I told the Ambassador that I assumed that these and other ambigu-

⁵³ See last paragraph for instructions to repeat to Tokyo as no. 157.

⁵⁴ See p. 617.

ities in the Japanese proposals could be clarified prior to the undertaking of formal negotiations. I then told him that aside from these comparatively minor details there was an issue involved of a far more serious nature in the provision in paragraph 3 that the Shantung Railroad should be under joint ownership. I told the Ambassador that I had reason to feel that China would not find this provision acceptable as China naturally wishes to work toward a unified railway system and would not be inclined to accept a plan which would make it impossible to extend complete Chinese control to the Shantung Railroad. I added that I felt that I could not hopefully make any proposal to the Chinese Government that it should undertake to negotiate on this basis. I placed emphasis on the point that it was not consistent with the principle of making restoration to China to retain a half interest in the Shantung Railway. Baron Shidehara then assured me that the proposals made by Japan were not formal, to be taken or rejected as they stood, but were a suggested general plan offered with the purpose of inducing China to negotiate. I then expressed to the Ambassador my gratification that this was so, as in that case it might prove to be possible for the Japanese Government to propose some solution in the way of a plan by which China would be able to obtain complete control and ownership of the railway by making reasonable compensation. On that point Baron Shidehara did not definitely commit himself. He again stated, however, his feeling of hope that a way might be found for me to influence the Chinese Government to consider proposals for a speedy and satisfactory settlement. I reiterated my assurance that I desired to be of help in securing a settlement prior to the Washington Conference if it was possible for that to be accomplished on a basis which would seem to China to be just; for if the United States undertook good offices with China, the Chinese would attribute to us, of course, a moral responsibility, at least, for the nature of the adjustment. I also said that in case the proposals by Japan were really subject to possible changes, it would assist me to have Japan give an assurance to that effect. That would help me in deciding what additional action it might be possible to take. I added that such consideration would be made easier if the Ambassador could give me definite assurance that the Japanese Government would be willing to accept a plan for full control and ownership of the railway by the Chinese. This is the present state of the matter with Japan.

On September 8[9?] the Chinese Minister here gave me a translation of the Japanese proposals from the Chinese text.⁵⁵ I did not, however, comment to him on the matter until September 15. Then

⁵⁵ Not printed.

I told him that I was not prepared to make to the Chinese Government any proposal on the subject. However I did tell the Minister that I had been a little disturbed by the rumors that China would refuse to negotiate with the Japanese Government regarding Shantung and would put off the issue for consideration at the Washington Conference. I told him that I did not wish him to understand me as barring the question from consideration at the Conference, but that he must see clearly that as a practical matter China would find in the Conference all the chief powers, with the exception of the United States, prevented by the Treaty of Versailles from giving support to the claim of China as opposed to Japan's claims based on treaty rights. Furthermore I told the Minister that Japan would have a strong tactical position if her overtures were ignored or repulsed by the Chinese Government after she had made an offer of terms which to the average man would seem to be at least reasonable. For this reason I made the suggestion to the Minister that apparently the Chinese Government now had the chance to offer such counter-proposals as would make the issue clear. The Minister confidentially commented that perhaps the Government at Peking doesn't dare to take any step on account of the suspicion, by the Chinese people as a whole and by the revolutionary factions, that the Peking Government secretly may compromise its position, a thing which was done in 1918. In reply I suggested that it would tend to dissipate suspicions of this nature if a public statement were made of the Chinese proposals in reply to those submitted by Japan. The Minister then mentioned the fact that Minister for Foreign Affairs Yen could hardly dispose of this issue prior to his departure from China to attend the Conference. I said that if the Chinese position were previously defined as a preliminary to discussions on the issue, it might be possible to have the actual negotiation of the terms continued in Washington collaterally but not as a part of the Conference.

I should also add confidentially for your own guidance that in a proper case I should be disposed to urge the Chinese Government to negotiate with Japan. I would do this in order to secure a settlement of the question which would be as nearly just as may be, considering the prejudice which has been suffered in the case through the Treaty of Versailles and also through the actions of the Government of China itself. It is necessary constantly to bear in mind, however, that the United States can not place itself, in any phase of the negotiations, in the position of either acting or appearing to act as an attorney for either China or Japan.

Repeat this cable as no. 157 to the Embassy in Japan for Ambassador Warren's information.

HUGHES

793.94/1200

*The Chinese Minister (Sze) to the Secretary of State*⁵⁶

TELEGRAM FROM THE WAICHIAO PU, DATED OCTOBER 5TH, 1921, ON CHINA'S REPLY TO THE JAPANESE PROPOSALS FOR THE READJUSTMENT OF THE SHANTUNG QUESTION DELIVERED TO THE JAPANESE MINISTER AT PEKING ON THE SAME DAY, RECEIVED BY THE CHINESE LEGATION IN WASHINGTON ON OCTOBER 6TH, 1921

With reference to the important Shantung Question which is now pending between China and Japan, China has indeed been most desirous of an early settlement for the restitution of her sovereign rights and territory. The reason why China has not until now been able to commence negotiations with Japan is because of the fact that the basis upon which Japan claims to negotiate are all of a nature either highly objectionable to the Chinese Government and the Chinese people, or such to which they have never given their recognition. Furthermore, in regard to the Shantung Question, although Japan has made many vague declarations she has in fact had no plan which is fundamentally acceptable. Therefore the case has been pending for many years much to the unexpectation of China. On September 7 Japan submitted certain proposals for the readjustment of the Shantung Question in the form of a memorandum together with a verbal statement by the Japanese Minister to the effect that in view of the great principle of Sino-Japanese friendship Japan has decided upon this fair and just plan as her final concession, etc. After careful consideration the Chinese Government feels that much in Japan's new proposals is still incompatible with the repeated declarations of the Chinese Government, with the hopes and expectations of the entire Chinese people, and with the principles laid down in treaties between China and the foreign powers. If these proposals are to be considered the final concession on the part of Japan, they surely fall short to prove the sincerity of Japan's desire to settle the question. For instance:

(1) The lease of Kiaochow expired immediately on China's declaration of war against Germany. Now that Japan is only in military occupation of the leased territory the latter should be wholly returned to China without conditions. There can be no question of any lease-hold.

(2) As to the opening of Kiaochow Bay as a commercial port for the convenience of trade and residence of the nationals of all friendly powers, China has already on previous occasions communicated her intentions to do so to the powers, and there can be no

⁵⁶ Delivered to the Secretary of State by the Chinese Minister on Oct. 7, 1921.

necessity for the establishment of any purely foreign settlement again. Agricultural pursuits concern the fundamental means of existence of the people of a country; and according to the usual practice of all countries, no foreigners are permitted to engage in them. The vested rights of foreigners obtained through lawful processes under the German Regime shall of course be respected but those obtained by force and compulsion during the period of Japanese military occupation and against law and treaties can in no wise be recognized. And again although this same article in advocating the opening of cities and towns of Shantung as commercial ports agrees with China's intention and desire of developing commerce, the opening of such places should nevertheless be left to China's own judgment and selection in accordance with circumstances. As to the regulations governing the opening of such places, China will undoubtedly bear in mind the object of affording facilities to international trade and formulate them according to established precedents of self-opened ports and sees, therefore, no necessity in this matter for any previous negotiations.

(3) The joint operation of the Shantung Railway, that is, the Kiaochow-Tsinan Line, by China and Japan is objected to by the entire Chinese people. It is because in all countries there ought to be a unified system for railways, and joint operation destroys unity of railway management and impairs the rights of sovereignty; and, in view of the evils of the previous cases of joint operation and the impossibility of correcting them, China can now no longer recognize it as a matter of principle. The whole line of the Shantung railway, together with the right of control and management thereof should be completely handed over to China; and after a just valuation of its capital and properties one half of the whole value of the line not returned shall be purchased back by China within a fixed period. As to the mines appurtenant to the Shantung Railway which were already operated by the Germans, their plan of operation shall be fixed in accordance with the Chinese Mining Laws.

(5) With reference to the construction of the extension of the Shantung Railway, that is, the Tsinan-Shunteh and Kiaochow-Hsuchow Lines, China will, as a matter of course, negotiate with international financial bodies. As to the Chefoo-Weihsien Railway, it is entirely a different case, and cannot be discussed in the same category.

(6) The Custom House at Tsingtau was formerly situated in a leased territory, and the system of administration differed slightly from others. When the leased territory is restored, the Custom House thereat should be placed under the complete control and manage-

ment of the Chinese Government and should not be different from the other Custom Houses in its system of administration.

(7) The extent of public properties is too wide to be limited only to that portion used for administrative purposes. The meaning of the statement in the Japanese memorandum that such property will in principle be transferred to China, etc., rather lacks clearness. If it is the sincere wish of Japan to return all the public properties to China, she ought to hand over completely the various kinds of official, semi-official, municipal and other public properties and enterprises to China to be distributed, according to their nature and kind, to the administrations of the Central and local authorities, to the municipal council and to the Chinese Customs, etc., as the case may be. Regarding this there is no necessity for any special arrangement, and

(9) The question of the withdrawal of Japanese troops from the Province of Shantung bears no connection with the restoration of the Kiaochow Leased Territory and the Chinese Government has repeatedly urged for its actual execution. It is only proper that the entire Japanese Army of Occupation should now be immediately evacuated. As to the policing of the Kiaochow-Tsinan Railway, China will immediately send a suitable force of Chinese Railway Police to take over the duties. The foregoing statement gives only the main points which are unsatisfactory and concerning which the Chinese Government feels it absolutely necessary to make a clear declaration. Further, in view of the marked difference of opinion between the two countries, and apprehending that the case might long remain unsettled, China reserves to herself the freedom of seeking a solution of the question whenever a suitable occasion presents itself.

793.94/1207

The Japanese Ambassador (Shidehara) to the Secretary of State

WASHINGTON, *October 22, 1921.*

DEAR MR. SECRETARY: The Japanese Government have just telegraphed to me the text of their communication, under date of October 19 [15th], in reply to the Memorandum of the Foreign Office at Peking of October 5,⁵⁷ on the Shantung question. Knowing the friendly interest which you have taken in the matter, I now beg to enclose herewith a copy of the new Japanese communication.

Believe me [etc.]

K. SHIDEHARA

⁵⁷ See note from Chinese Minister, *supra*.

[Enclosure]

NOTE OF THE JAPANESE GOVERNMENT TO CHINA, OCTOBER 19⁵⁸

The Japanese Government have submitted to their most careful consideration the memorandum of the Chinese Government dated October 5th relative to the Shantung question. The Japanese Government, animated as they have long been by a keen desire for a speedy settlement of this question, have hitherto spared no efforts to achieve its realization. In fact, directly the treaty of peace with Germany came into force in January last year, the Japanese Government invited the Chinese Government to enter into negotiations on this subject. No response, however, was returned from China for several months. When it eventually came it simply expressed un-readiness to proceed with direct negotiations with Japan on the ground of China's nonadherence to the treaty of peace with Germany as well as opposition on the part of the general public to such steps. Whereupon the Japanese Government, while inviting the Chinese Government to reconsider the matter for reasons then advanced, made known their willingness to open negotiations with China at any moment considered opportune by her. More than twelve months have elapsed since then. Throughout that time the Japanese Government have been patiently waiting for the advent of a good opportunity for taking up this question, always hoping that the time may arrive when calm and fair counsels may prevail among the Government and the people of China.

In the meantime the attitude of the authorities concerned in China has undergone a considerable change. On more than one occasion they made it known to the Japanese Government that they were desirous of opening *pourparlers* with Japan on this subject. In particular on the eve of Mr. Obata's departure for Japan in May last the Chinese Foreign Minister expressed to him his ardent desire to see a concrete project presented by Japan couched in just and reasonable terms, such as would simultaneously be deemed fair by all parties. Subsequently the authorities concerned in China confidentially presented to the Japanese Government a certain project in regard to this question and later they expressed, though unofficially, their readiness to open negotiations with Japan.

The Japanese Government, prompted by the desire to reach a satisfactory and speedy settlement of this question and taking into full account the Chinese project above referred to, made overtures

⁵⁸ According to the American Minister to China, this communication was dated Oct. 15 and was handed to the Chinese Minister for Foreign Affairs by the Japanese Minister to China on Oct. 19; see despatch no. 155, Nov. 10, p. 631.

to the Chinese Government, September 7th last,⁵⁹ embodying most generous and fair terms and invited the deliberate consideration of that government.

Contrary, however, to the expectation of the Japanese Government, the Chinese Government in their memorandum under consideration expressed their unwillingness to proceed for the time being with the negotiation in question on the ground that the terms of settlement as proposed by the Japanese Government fell short of convincing them of the sincerity of Japan's desire to settle this question. Further, they used at the beginning of their memorandum an expression characterizing most of the Japanese declarations hitherto made as hollow and devoid of meaning. The Japanese Government keenly regret for the sake of China that such a derogatory expression, contrary to the principles of international courtesy, should have been used by her.

Furthermore, contentions put forward by China *vis-a-vis* the Japanese project are inexplicit and in particular there are a number of points on which the Japanese Government invite the reconsideration of the Chinese Government. For instance, argument is advanced by her that the rights formerly enjoyed by Germany in regard to the lease of Kiaochow, having totally expired in consequence of China's declaration of war against Germany, should be restored to China without conditions. This not only is an argument hardly warranted by the principles and usages of international law or by treaties in existence between China and Japan but may be said to aim at the frustration of effects of the Versailles Treaty.

On May 20th last the German representative in China declared in his statement addressed to the Chinese Foreign Minister that by virtue of the Versailles Treaty Germany had renounced all her rights and interests which she formerly enjoyed in Shantung under Sino-German agreements and that she was no longer capable of restoring them direct to China. This declaration having been duly taken note of by the Chinese Government they are deemed to be fully cognizant of the effects produced by the Versailles Treaty. It will be remembered that the Chinese declaration of war with Germany was made in August 1917 when more than two years had already elapsed since the transfer of former German rights to Japan had been fully recognized by China in virtue of the Sino-Japanese treaty concerning Kiaochow and other matters. China made her declaration of war only at the instance of the allied powers, receiving in return for her action various advantages at their hands, and Chinese efforts in the war amounted to deportation of Germans and Austrians from China and the despatch of workmen to France.

⁵⁹ See note from the Japanese Ambassador, p. 617.

The Chinese contention therefore that the rights of lease expired entirely as a natural consequence of the Chinese declaration of war against Germany may be said to be tantamount to wholesale negation of treaties in existence as well as of all established facts. The Japanese Government cannot but conclude that China has no respect for the fundamental idea which should govern negotiations of the Shantung question.

As regards the Chinese assertion concerning the Shantung railway, it appears that she intends to place its management under her own complete control and to leave for the time being one-half of the whole value of the railway unpaid. Japan, while entertaining no intention whatever of operating the railway exclusively by herself in any manner, is unable, in view of the actual railway conditions obtaining in China, to concur in the suggestion that the railway management should be left entirely in the hands of the Chinese Government. In a word, Japan's desire is to operate the railway in the most successful manner by means of harmonious co-operation of both countries.

It will be recalled that the Shantung railway was operated by Germany alone so long as it remained in her hands and that Japan has taken it over from her at the sacrifice of lives and treasure. In spite of that, Japan intends to work it as a joint enterprise with China on the basis of utmost impartiality.

Further, it was in September 1918, a date long after the Chinese declaration of war against Germany, that it was arranged between China and Japan to operate the Shantung Railway as their joint enterprise. The Japanese Government are therefore unable to understand the Chinese contention in this respect, impugning the Japanese claim as being an act which violates Chinese sovereignty.

It is to be observed that the reparation commission after having duly appraised the value of the Shantung Railway, together with appertaining mines, placed it to the credit account of Germany with a view to setting it off against the indemnity to be paid by that Power. It is therefore inadmissible that China should claim to retain one-half of such railway properties in her hands without conditions.

As regards the Japanese proposal relative to public property of Germany, the Japanese, while ready in principle to restore the so-called administrative public property to China, has no intention whatever of retaining all other public property in her hands, her wish being to make, in the interest not only of the people of China and Japan, but also of the foreign population in general, a satisfactory arrangement with China looking to impartial disposition of such property. The Chinese claim to hold it entirely in Chinese hands is one which can hardly be justified in the nature of the case.

Moreover, the Japanese Government must confess that they are unable to comprehend the Chinese assertion that the Japanese project is entirely at variance with the principles underlying all treaties between China and foreign powers. The Japanese Government, however, are happy to declare hereby that whenever the Chinese Government, in full appreciation of the main purpose of the Japanese proposal and upon giving more deliberate consideration to the question now at issue, and in the interest of cordial relations between China and Japan, shall express their willingness to open negotiations Japan will always be found ready to embark upon such negotiations.

500 A 4002/79a : Telegram

The Secretary of State to the Minister in China (Schurman)

[Paraphrase]

WASHINGTON, October 29, 1921—1 p.m.

289. Yesterday the situation arising from the Japanese memorandum of October 20 [15?] ⁶⁰ regarding Shantung was discussed with me by the Chinese Minister. The Chinese Government, I understand from him, is of the opinion that I am against having the Shantung matter discussed in the Washington Conference. That opinion, I explained to the Minister, is without foundation. I explained that I felt that it would be wise for China to negotiate directly with the Japanese on account of tactical advantage instead of having the question presented to the decision of the Washington Conference where practically all the nations taking part are already committed by the Peace Treaty. When the Minister said that he hoped that Foreign Minister Yen would attend the Conference I suggested that if he came it would make it possible to continue the negotiations between the Chinese and Japanese Governments in a favorable atmosphere. The Minister inquired whether I would consider it proper to request the Foreign Minister to attend. I replied that I would be unable to request it but that of course I would gladly have you use any proper opportunity to suggest that it would be particularly pleasing if the head of the Chinese Ministry of Foreign Affairs should be able to personally attend. This has been done with respect to certain French and British statesmen.

HUGHES

⁶⁰ *Supra.*

793.94/1246

The Minister in China (Schurman) to the Secretary of State

No. 159

PEKING, November 5, 1921.

[Received December 17.]

SIR: With reference to my despatch No. 148, of November 4, 1921,⁶¹ enclosing newspaper clippings regarding the recent Japanese memorandum to the Chinese Government dated October 15th,⁶² in reply to the Chinese memorandum dated October 5th,⁶³ relative to Shantung, I have the honor to transmit herewith for the Department's information a translation of an introductory statement handed in Chinese text to the Chung Mei News Agency at 7 p.m., on October 29, 1921.

I have [etc.]

JACOB GOULD SCHURMAN

[Enclosure—Translation]

Statement by the Chinese Foreign Office

In the recent Japanese memorandum to the Chinese Government regarding the Shantung question an allegation was made that the Peking Government had unofficially notified the Tokyo Government of China's desire to open negotiations with Japan regarding Shantung. The fact is that the Foreign Office, when questioned by numerous popular societies and organizations with regard to the Government's plans for settling the Shantung case, intimated that the Commission for Discussion of the Versailles Peace Treaty had drawn up a project covering the restoration of Shantung for submission to the Council of the League of Nations. The project mentioned by the Foreign Office was discussed by Mr. Yu Ching-ho, a Councillor of the Ministry of War, to [with?] General Banzai, Japanese Advisor to the same Ministry, and through this channel became known to the Japanese Government, which took it as a basis for its recent offer for direct negotiations between the two countries and mentioned it in its memorandum of October 19th, which was published to the world.

Therefore the Foreign Office, feeling that this fact requires explanation, is making public all of the eight points drafted by the Com-

⁶¹ Not printed.

⁶² *Ante*, p. 625.

⁶³ See note from the Chinese Minister, p. 622.

mission for Discussion of the Versailles Peace Treaty for submission to the Council of the League of Nations. The points in question, accompanied by an introductory statement, follow:

"In view of the impossibility of settling the Shantung question with Japan, China presents her case to the League of Nations for settlement, basing her claims on her rights obtained upon her declaration of war on Germany. As a result of this declaration of war China, being entitled to receive back all the rights and privileges formerly enjoyed by Germany in the Shantung Leased Territory, feels convinced of the justice of her claims in this case, as follows:

"1. The entire Leased Territory of Kiaochao shall be taken back by China, and China will turn Tsingtao into an open port and govern it exactly as under the former German administration.

"No customs duties shall be imposed on goods brought into the Port of Tsingtao for sale in the Leased Territory.

"A Municipal Administrative Bureau shall be established similar to those at Tientsin and Hankow (in the former German and Austrian Concessions at those places).

"2. China will not recognize the validity of the forcible purchases of land in the Leased Territory from the Chinese by the Japanese during the period of Japanese military occupation.

"3. All property in Tsingtao formerly belonging to the German Government, such as wharves, bridges (pontoons), godowns, light-houses and so forth, shall be turned over to the Chinese Maritime Customs.

"The electric light works, water works, slaughter houses, mining administration, hospitals and so forth may be turned over to the control of the Municipal Administrative Bureau.

"The fortifications and barracks shall be controlled directly by the Central Chinese Government: and, as these properties have been under Japanese control for several years, separate arrangements may be made with Japan for their delivery to and control by China.

"As the sale of salt is a Government monopoly and, as this industry was not carried on by the Germans in their day, all of the salt fields shall be returned to China. If, however, Japan should be in need of salt, the Chinese Government will permit Japan to buy it under a special license providing for specified quantities over a stated period of years.

"4. With regard to the Shantung Railways, the Tsinanfu-Shuntehfu and Kaomi-Hsuchowfu Lines shall be turned over to the new consortium for operation. The Kiaochao-Tsinanfu Line shall either be operated immediately by China herself or a certain date shall be fixed for the return of the Line to China. Until, however, the Line is turned over to China it may be temporarily operated by China and Japan as far as its purely financial and technical affairs are concerned.

"All the shares of the Railway formerly belonging to the German Government shall be equally divided between China and Japan: and the refunding of all shares in the possession of private German shareholders shall, if it should prove necessary, be made by China and Japan equally.

“China shall be entitled to one-half of the surplus profits of the Railway since its seizure and operation by Japan: and this arrangement shall remain effective until the Railway is definitely and absolutely returned to the control of China.

“All departments of the Railway that have a political character, such as the Railway Police, shall be administered by China alone.

“5. All Japanese troops in Shantung Province shall be withdrawn at once.

“6. All mines formerly operated by Germans along the Railway shall be conducted as joint enterprises for a stated period of time and then be restored to China absolutely.

“7. The Tsingtao-Chefoo and Tsingtao-Shanghai cables are entirely within Chinese territory and must, therefore, be returned to China.

“The wireless station at Tsinanfu, which was installed by the Japanese Government, shall also be returned to China, who will pay Japan for the cost of its construction.

“8. Japan shall make a statement that all rights and privileges formerly enjoyed by Germany as a result of treaties or agreements with China shall, with the exception of such rights and privileges as China and Japan may later mutually agree upon, be waived by Japan: and henceforth Japan shall make no demands in connection with the rights and privileges that she is thus expected to waive.”

(The Chinese Government cabled the above eight points to Minister Wellington Koo at Geneva on December 4, 1920.)

793.94/1245

The Minister in China (Schurman) to the Secretary of State

No. 155

PEKING, *November 10, 1921.*

[Received December 17.]

SIR:

It will be remembered that the Japanese Government requested the Chinese Government, in a memorandum dated September 7, 1921,⁶⁵ to open direct negotiations regarding Shantung. The Chinese Government replied to the abovementioned Japanese memorandum on October 5, 1921,⁶⁶ and stated clearly China's position in the matter as well as emphasizing the differences of opinion between the two countries. The second Japanese memorandum dated October 15, 1921, in reply to the Chinese memorandum of October 5, 1921, was handed to the Chinese Minister for Foreign Affairs by the Japanese Minister at Peking on October 19, 1921.⁶⁷ This memorandum.

⁶⁵ See note from the Japanese Ambassador, p. 617.

⁶⁶ See note from the Chinese Minister, p. 622.

⁶⁷ *Ante*, p. 625.

after discussing the various points of difference between the two countries, closes by expressing the willingness of the Japanese Government to enter into further negotiations in the premises.

The second Chinese memorandum, dated November 3, 1921, (a copy of which is enclosed herewith as a newspaper clipping from the *Peking and Tientsin Times* of November 5th) replies to Japan's second memorandum of October 15th and refutes the various arguments of the Japanese Government as set forth therein.

It will be noted that the exchange of notes between the two governments has at least set forth the points of contention between the two countries, that while the chances of a satisfactory settlement of the question by direct negotiations between China and Japan seem at present remote, still these memoranda form a basis for further negotiations and may prove helpful to the Chinese and Japanese delegates at Washington provided the Shantung question is brought up at the Pacific Conference.

I have [etc.]

JACOB GOULD SCHURMAN

[Enclosure]

The Chinese Minister for Foreign Affairs (W. W. Yen) to the Japanese Minister in China (Obata)

On October 19, the Japanese Government again presented to the Chinese Government a Memorandum relative to the Shantung question. After careful consideration, the Chinese Government feels that the Japanese Government not only differs fundamentally from the views of the Chinese Government as expressed in its Memorandum of October 5, but also shows apparently much misunderstanding in her interpretation of the text thereof. The Chinese Government therefore deems it highly necessary to make a further declaration concerning the past facts and its unchanged point of view from first to last.

The Shantung question concerns the vital interests of China. The Chinese Government is very earnest in its sincere endeavours to find an early solution of the question, even very much more so than Japan. It is only due to the fact that the bases of settlement proposed by the Japanese Government are altogether too far apart from the hopes and expectations of the Chinese Government and people that they can but calmly and patiently wait for an opportunity to come when Japan may reconsider her position. As to the statement embodied in the Japanese Memorandum under consideration to the effect that on the eve of Minister Obata's departure for Japan, in May last this year, Foreign Minister Yen formally expressed to him his desire to see a concrete project presented by

the Japanese Government couched in just and satisfactory terms such as would simultaneously be deemed fair by all the nations, it is to be observed that when leaving for Japan Minister Obata inquired of Dr. Yen as to his personal views on the Shantung question. It is evident, therefore, that Dr. Yen's answer to his inquiry is purely personal and is not, as it is alleged, a formal statement by the Chinese Minister of Foreign Affairs. Again, it is alleged in the Japanese Memorandum under consideration that the Chinese Government Authorities have confidentially presented to the Japanese Government a certain project for the settlement of the question and that they also unofficially expressed their readiness to open negotiations with the Japanese Government. As to these allegations, it is highly probable that they must have arisen out of misunderstandings caused by the roundabout repetition of personal conversations between General Banzai and Councillor Yu of the Ministry of War. It would seem to be wanting in discretion, if these private conversations between individuals were to be referred to as grounds for the presentation of the Japanese proposals. As to the Memorandum handed by China to the Japanese Minister on October 5, it enumerates and points out the difference of views between China and Japan, both regarding the principles underlying the proposals of Japan and regarding the contents of the terms thereof. If Japan had a true understanding of them, she would certainly have proposed a project, more substantial and just, one that would be generally recognized as fair by all sides. It is, however, highly regrettable that Japan has not given any sign of concession, while, on the contrary she maintains that China has openly indicated her unwillingness to proceed with the negotiations in question.

It is to be observed that the reason why the representatives of China have not been able to sign the Versailles Treaty is simply because of the few articles therein relative to the Shantung question. Since China has not signed the Versailles Treaty, it is impossible to oblige China to accord recognition to the effects arising from the said Treaty regarding the Shantung question. Therefore, while Japan considers that the leasehold of Kiaochao has been transferred to her through the operation of the Versailles Treaty, China, on the other hand, deems that it has expired through her declaration of war against Germany. This difference of viewpoint, if insisted upon by both Countries, will forever deprive this question of a solution. Since Japan is willing to restore Kiaochao completely to China, there is no more necessity for her to insist on the aforesaid point of dispute. As to the criticism directed to the declaration made by the German Representatives to China, it is to be observed that at the time when they came to negotiate the commercial Agreement with

China, China still insisted on her demand for the restoration of Kiaochao. But, owing to the conditions of the war and the Treaty restraint, Germany lost by *force majeure*, her power of returning Kiaochao to China, for which she expressed her regret to the Chinese Government. To this, it must be also noted, the Chinese Government has only declared its acknowledgement of Germany's explanation as such and no more. Indeed, it is a serious misunderstanding on the part of Japan to construe this incident to mean China's recognition of the Versailles Treaty.

Again, it is to be observed that the Kiaochao-Tsinan Railway, built within Chinese territory, was primarily an undertaking of the nature of a corporation and Chinese capital was also invested in it. It was not the public property of Germany. Nor was it private property exclusively belonging to Germans. Although it was temporarily operated by the Germans, China has long been looking forward to an opportune moment for its reclamation. Furthermore, the right of policing the Railway belonged exclusively to China. There was absolutely no military necessity, justifying the occupation of the Railway by Japan. During that time, China repeatedly protested to Japan that there was really no justification for the occupation of the Railway by the Japanese Army. Furthermore, there were then no German troops stationed along the line of the Railway except that part lying within the Leased Territory. At the time of the occupation of the Railway, Japan encountered no resistance whatever, and she can have no ground to claim for any sacrifice of lives and treasure suffered on account of the Railway. Later when China joined the belligerent nations on the side of the Allies, it was only proper that all railways within the territorial bounds of China should be returned to her own control. However, the Japanese troops have remained, refused to withdraw and caused innumerable and endless losses and damages to the Chinese people along the line of the Railway. This the Chinese Delegates had not hesitated to declare repeatedly in the Peace Conference at Paris.

The Chinese Memorandum of October 5 proposes to reclaim the right of control over the Railway and to divide its entire capital and property into two halves, and that as to the half obtained by Japan, it is to be redeemed by China in successive periods. This arrangement, in the opinion of the Chinese Government, is very fair and just, and it is to its great regret that Japan has referred to it as a proposal devoid of meaning. It is to be inferred that in the opinion of the Japanese Government the capital and property of the Railway have been adjudged by the Reparations Commission to offset German indemnities. However, it must not be overlooked that China has not signed the Versailles Treaty. Consequently, how

can the Reparations Commission have any right and authority to make disposition of property within Chinese territory to satisfy the indemnity obligations of Germany? Furthermore, owing to China's participation in the War on the Allies' side, Germany has also a certain amount of indemnity to pay to China. If the Kiaochao-Tsinan Railway is to be used as an article in [to] satisfy indemnity obligations, China, it is more than evident, should be reimbursed first.

Again, with reference to the disposition of public properties belonging to Germany, as long as the Japanese Government has no intention of holding the various kinds of properties, it is only right that they should be handed over to China for proper administration. Indeed, in the interests of the nationals of foreign countries, the Chinese Government is most desirous of deciding upon a just and fair settlement, but so far the Japanese Government has not presented to China its avowed concrete and fair project. It is therefore impossible for the Chinese Government to define its attitude either one way or the other.

In a word, the views of the Chinese Government have already in general appeared in its Memorandum of October 5. Owing to the fact that in her second Memorandum, Japan has not yet understood China's views and further that with reference to the railways, her proposals are more difficult to accept than as stated in the first Memorandum, leading perhaps in a direction contrary to that of an early solution of the question, the Chinese Government does not hesitate, therefore, in taking pains again to make a further declaration and deeply hopes for the sake of the everlasting peace of the Far East and in the interests of true Sino-Japanese friendship, the Japanese Government will again give its fullest consideration to the question.

Further, with reference to the Japanese troops in Shantung province, the Japanese Government has long promised to withdraw them in advance, and their evacuation at an early date, it is to be recalled, was also urged by China in her last memorandum. However, up to the present, the actual evacuation has not yet been begun as promised and requested. It is therefore the earnest hope of the Chinese Government that the Japanese troops in question be recalled at an early date, while the responsibility of policing the Railway will, as a matter of course, be assumed by China's own police force.

[PEKING, *November 3, 1921.*]

[Documents relating to negotiations during the Washington Conference on the Limitation of Armament, November 12, 1921-February 6, 1922, will appear in a later volume of *Foreign Relations.*]

CANCELATION OF THE SINO-JAPANESE MILITARY PACT OF
MARCH 1918⁶⁸

793.94/1167

The Minister in China (Crane) to the Secretary of State

No. 775

PEKING, February 1, 1921.

[Received March 9.]

SIR: I have the honor to refer to the Legation's telegram No. 66, of January 29th, 11 a.m.⁶⁹ and to forward copies of the notes exchanged between the Chinese and Japanese authorities relative to the cancellation of the Sino-Japanese Military pact. The Legation has been informed by a reliable source that these texts are correct.

I have [etc.]

(For the Minister)

A. B. RUDDOCK

[Enclosure]

*Notes Exchanged between the Chinese Minister of Foreign Affairs
(W. W. Yen) and the Japanese Minister in China (Obata) Cancell-
ing the Sino-Japanese Military Pact*⁷⁰

FROM THE CHINESE MINISTER OF FOREIGN AFFAIRS TO THE JAPANESE
MINISTER IN PEKING, DATED JANUARY 28, 1921

MONSIEUR LE MINISTRE: With reference to the Notes originally exchanged between the Chinese Minister to Japan and the Japanese Minister for Foreign Affairs on the subject of common defence of the two countries as well as to the Military and Naval Agreements between the authorities concerned of both countries, I now have the honor to state that the Supreme Commands of our two countries, taking into consideration that the necessity for common defence has already ceased to exist, the Military and Naval Representatives of both countries have signed Memorandums⁶⁹ thereby cancelling the Agreements regarding the term of validity of the Military and Naval Agreements, and recognizing at the same time that the time of the termination of the condition of war has already been reached on the date [of] signature.

I beg to inform you that I confirm the contents of the said Memorandums, and that accordingly the notes on the subject exchanged

⁶⁸ For exchange of notes and conclusion of agreement between the Governments of China and Japan relating to military cooperation, see *Foreign Relations*, 1918, pp. 222 ff.

⁶⁹ Not printed.

⁷⁰ Published in *The Peking Leader*, Jan. 30, 1921.

between the Chinese Minister to Japan and the Japanese Minister for Foreign Affairs in March, 1918, the Military and Naval Agreements based upon these Notes as well as the documents attached thereto shall all become from this day entirely null and void.

I avail etc.

**FROM THE JAPANESE MINISTER IN PEKING TO THE CHINESE MINISTER
OF FOREIGN AFFAIRS, DATED JANUARY 28, 1921**

MONSIEUR LE MINISTRE: Acknowledging the receipt of Your Excellency's Note No. 19 of even date, I have the honor to state, with reference to the Notes originally exchanged between the Japanese Minister for Foreign Affairs and the Chinese Minister to Japan on the subject of common defence of the two countries, as well as to the Military and Naval Agreements concluded between the authorities concerned of both countries, that the Supreme Commands of our two countries, taking into consideration that the necessity for common defence has already ceased to exist, the Military and Naval Representatives of both countries have signed Memorandums thereby cancelling the Agreements regarding the term of validity of the Military and Naval Agreements, and recognizing at the same time that the time of the termination of the condition of war has already been reached on the date of signature.

I have to inform you that I confirm the contents of the said Memorandums, and that accordingly the Notes on the subject exchanged between the Japanese Minister for Foreign Affairs and the Chinese Minister to Japan in March, 1918, the Military and Naval Agreements based upon those Notes as well as the documents attached thereto shall all become from this day entirely null and void.

I avail etc.

COLOMBIA

RATIFICATION ADVISED BY THE UNITED STATES SENATE OF THE TREATY OF APRIL 6, 1914, BETWEEN THE UNITED STATES AND COLOMBIA ¹

719.2115/14

The Secretary of State to the Minister in Panama (Price)

No. 798

WASHINGTON, April 15, 1921.

SIR: For your information, the Department advises you that Mr. Alfaro,² who, as you are aware, recently spent some time on special mission at Washington, called at the Department the day before leaving Washington, accompanied by Chargé d'Affaires Lefevre, and in the course of conversation, referred to the boundary clause contained in the proposed Colombian Treaty, stating that his Government could not be expected to agree to results of a Treaty to which it was not a party. He was informed that nothing could be done to hold up this Treaty now and that this Government would not consider the introduction of any new topic of discussion in the consideration of this Treaty at the present time. Mr. Alfaro then stated that the boundary provision would be acceptable to Panama. It was suggested that after the proposed Treaty had been ratified by the United States and Colombia, a direct understanding between Colombia and Panama, regarding the boundary question would be advisable. To this both Messrs. Alfaro and Lefevre agreed.

I am [etc.]

CHARLES E. HUGHES

711.21/454: Telegram

The Secretary of State to the Chargé in Colombia (Goold)

WASHINGTON, April 21, 1921—6 p.m.

17. Legation's despatch No. 3, March 1, 1919.³ Advice and consent of the Senate to the ratification of the Treaty as amended by agreement with Colombian Government was given yesterday without further amendments. Vote was 69 to 19. Inform Government.

HUGHES

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. I, pp. 823 ff.

² Ricardo J. Alfaro, Panamanian Minister of Gobierno and Justice.

³ *Foreign Relations*, 1919, vol. I, p. 731.

711.21/454 : Telegram

The Secretary of State to the Chargé in Colombia (Goold)

WASHINGTON, April 27, 1921—5 p.m.

19. Department's 17 April 21, 6 p.m.

In addition to amendments made by Senate which are in exact conformity with those proposed in Mr. Philip's note of February 27, 1919, and accepted by Mr. Molina's note of same date,⁴ Senate advice and consent to ratifications is given: "with the understanding to be made a part of such treaty and ratification that the provisions of section I of Article I of the treaty granting to the Republic of Colombia free passage through the Panama Canal for its troops, materials of war and ships of war, is not to [*shall not*] apply in case of war between the Republic of Colombia and any other country." This makes necessary in both the United States and Colombian ratifications the recital of said understanding and that ratification is subject thereto. Inform Government. Instructions by next pouch.⁵

HUGHES

711.21/646

The Colombian Minister (Urueta) to the Secretary of State[Translation ⁶]

No. 5402

WASHINGTON, September 27, 1921.

SIR: As Your Excellency is aware, the Senate of the United States in ratifying on April 20 of the present year the Treaty of April 6, 1914, signed between my country and that of Your Excellency, included this final resolution:

Resolved further, That the Senate advise and consent to the ratification of the treaty signed by the plenipotentiaries of the United States and the Republic of Colombia on April 6, 1914, providing for the settlement of differences between the United States and the Republic of Colombia, with the understanding to be made a part of such treaty and ratification, that the provisions of section 1 of Article I of the treaty granting to the Republic of Colombia free passage through the Panama Canal for its troops, materials of war, and ships of war, shall not apply in case of war between the Republic of Colombia and any other country."

It is the understanding of this Legation and of its Government, from the wording itself of the explanation quoted above, from the spirit and import of the treaty, and also from the record of the

⁴ *Foreign Relations*, 1919, vol. 1, pp. 731-733.⁵ Not printed.⁶ Supplied by the editor.

debates in the Senate, that the latter's final resolution refers solely to the exemption from dues which were stipulated in article I of the treaty in favor of the warships and war materials of Colombia and of her troops, in the event of war between my country and any other, and in no wise—particularly not for the purpose of debarring or limiting them to the detriment of Colombia—to the rights recognized by the United States as belonging to all nations in the Hay-Pauncefote Treaty celebrated in 1901 between the United States and Great Britain.⁷ In other words, this Legation and its Government understand that in the contingency contemplated by the Senate of the United States, that is, a war between Colombia and some other country, Colombia will not, by the resolution of the Senate of the United States in its ratification of the treaty of April 6, 1914, be placed under any disadvantage in the Panama Canal in the transport of troops, vessels, and materials of war, as compared with the other belligerent or belligerents.

The amendments made by the Senate of the United States to the treaty of 1914 being at present under consideration by the Congress of my country, and the resolution which is the subject of this note not having been included in previous discussions between the two Governments, I deem it expedient to inquire of Your Excellency, as I have done herein in order to avoid misunderstanding, whether Your Excellency's Government has any objection to make to the interpretation that the Government of Colombia and its Legation have given to the resolution of the Senate of the United States referred to above.

I express my deepest thanks beforehand for Your Excellency's answer.

Accept [etc.]

C. A. URUETA

711.21/646

The Secretary of State to the Colombian Minister (Urueta)

WASHINGTON, *October 3, 1921.*

SIR: I have received your note of September 27, referring to the Resolution incorporated by the Senate of the United States in its Ratification of April 20, 1921, of the Treaty of April 6, 1914, between the United States and the Republic of Colombia, which reads as follows:

[Here follows the text of the resolution quoted in the Minister's note *supra*, and a paraphrase of the note.]

In reply, I take pleasure in advising you that this Government understands the Senate Resolution, above mentioned, to mean that

⁷ *Foreign Relations*, 1901, p. 241.

the Republic of Colombia would not have the right of passage, free of tolls, for its troops, materials of war and ships of war, in any case of war between Colombia and some other country. The effect of that would be to place the Republic of Colombia, when at war with another country, on the same footing as any other nation under similar conditions, as provided in the Hay-Pauncefote Treaty concluded in 1901. The Republic of Colombia will not, therefore, by operation of the declaration of the Senate of the United States, above quoted, be placed under any disadvantage as compared with the other belligerent or belligerents, in the Panama Canal, in case of war between Colombia and some other nation or nations.⁸

Accept [etc.]

CHARLES E. HUGHES

711.21/653

*Message of President Suárez to the Colombian National Congress, October 5, 1921, Concerning Modifications of the Treaty of April 6, 1914*⁹

[Translation]

HONORABLE SENATORS and REPRESENTATIVES: The legislative bill approving the modifications of the Treaty of April 6, 1914, agreed to by the Government of the Republic and that of the United States of America, requires on your part a degree of attention in keeping with its importance, and on this account I take the liberty of addressing to you the present message, which I beg you to receive as the sincere expression of the opinions and wishes of the Government in the premises.

The international matter related with the material separation of the Isthmus of Panama, effected on November 3, 1903, under circumstances and through causes which we all know, for eighteen years has remained without solution for the Republic. This brings it about that Colombia in relation to the community of nations finds itself in an extremely anomalous situation, for having lost a region valuable because of its being the center of the land and seas of the planet, its rights in connection with this loss remain undefined, its interests continue unliquidated, its principal international relations are lacking in regular form, and the needs of its commerce in relation with the Canal and the Panama Railway do not receive the necessary satisfaction.

⁸ By telegram no. 29, of Oct. 4, 6 p.m., the Minister in Colombia was instructed to inform the Colombian Minister for Foreign Affairs of this interpretation of the Senate Resolution (file no. 711.21/643).

⁹ As published in *El Tiempo*, Oct. 6, 1921; copy forwarded to the Department by the Minister in Colombia under covering despatch of Oct. 6, 1921.

Since the disapproval of the arrangement originally projected for the opening of the Panama Canal, various schemes have followed each other for making regular the rights and interests of Colombia by means of as many proposed international conventions, all of which were sterile, even the Treaty of April 6, 1914, approved that year by the Government, and in course of time by the Senate of the United States of America during the year of 1921, subsequent to the modifications with which you are acquainted and which were accepted by the Colombian Government in view of the necessity of taking advantage of a supreme and favorable juncture for the conclusion of this long-standing matter.

The chief purpose of the legislative bill to which I have been referring is, therefore, to put an end to the situation which I have just superficially described, and has also as a principal end the determination of the northeastern boundaries of the Republic, the improvement of relations and friendship and commerce with the United States, and the granting of immunities of importance in connection with interoceanic transportation and of money indemnities which, if carefully and prudently employed, may be of service to the Nation in bettering its economic situation, by applying them to the satisfaction of future and permanent needs, though not to unproductive and transitory financial uses. The approval of the modifications would in this way produce highly beneficial results, while their rejection would effect the removal of the possibility of any definite arrangement whatsoever in this respect, and their postponement would cause considerable losses and perhaps other and greater evils.

The affair presents one aspect worthy of all your attention, and that is the legal responsibility of the Government and the personal responsibility of the undersigned for having accepted the modifications of the Treaty of 1914. But, in the first place, the official and personal conduct of the Government is sufficiently explained by the certainty which it felt of the necessity of taking advantage of a moment, perhaps the last or one of the last, most useful and propitious, in order that the Treaty might be approved by the Senate at Washington. In the second place, now, as in the year 1896, when there was being considered in the Congress of the Republic a Treaty concluded between Colombia and Venezuela, I can ask that you distinguish in the Panama Treaty the part related to the public good from the personal element, related with responsibilities of a moral and legal sort.

I repeat and shall continue to repeat that in the negotiation of this very important business, there falls to the Representative of the Republic in Washington, Doctor Carlos Adolfo Urueta, the merit for having conquered the difficulties which were for a long time opposed to the approval of the Treaty in the United States,

manifesting his talents of intelligence, education, prudence, activity, and patriotism; and that in regard to the acceptance of the modifications proposed by the Washington Government at a decisive moment, the undersigned assumed the responsibility, accepting whatever atonement might be accorded him by justice, law, or national opinion.

In 1896, as one of the signers of the Treaty with Venezuela to which I referred above, I said to the Senate, more or less this: "Separate the two aspects of the matter under discussion; deal with that of public expediency with all calmness and looking exclusively to the good of the Nation; deal with that of personal responsibility with severity and even cruelty; but do not confound the two sides of the affair, for you may harm the first and spoil it forever by confusing it with the second." Now also I may very courteously tell you: Deign to approve the modified convention, for if you do not do so, you may close every door to the negotiations which Colombia has been prosecuting for 18 years; and then consider the responsibility which may pertain to the Government or to that Mandatory who accepted the modifications to the convention.

It seems to me that the matter has another special side, also very worthy of your consideration, which is, the influence which the pending legislative bill might have upon the fiscal situation of the Republic. Until the end of 1920, that situation was satisfactory, as I had the honor to inform you in the Message of the 20th of last July,^{9a} and it was so because the customhouse receipts of that year were very considerable because of the economic prosperity temporarily brought about by the high prices and the large amount of products exported in 1920. But it was all one, the diminution in price in these products and the value of the trade, and the consequent lack of money with which to pay for the enormous quantity of merchandise, and the suspension of additional orders, and the grievous lessening of the income received from the customs resulting. This crisis has been the most acute ever suffered by the national exchequer, never had the income of the national Treasury decreased proportionately by so large an amount; no Government before had supported so great a reverse, for it is sufficient to state that during the portion of the present year already elapsed, the reduced income is producing month by month scarcely more than a million pesos, it having shrunk to such an extent as to represent in the neighborhood of one-third of that of the best months of last year.

Hence the arrears in pay for official services; hence the increasing rise on the debit side of the Treasury; hence the general clamor

^{9a} See despatch of July 24, 1920, from the Minister in Colombia, *Foreign Relations*, 1920, vol. I, p. 824.

which, contemplating only the fact without seeking the cause of the fact, imputes to the Government this overwhelming crisis, independent of its efforts, proceeding from inevitable causes, and which up to the present depends for its remedy exclusively upon the administrative branch of the Government, which in absolute solitude and isolation busies itself in seeking a remedy. The natural thing in cases like this would seem to be cooperation of the branches of the Government in confronting difficulties and dangers by means of adequate provisions. But since it is possible that this way of thinking is not in reality the most patriotic, but on the contrary common cooperation is not called for in the greater difficulties of an inevitable sort and not of a censurable nature, but that the denial of the resources asked for by the public administration is called for, for this reason, I entreat you not to consider the approval of the Treaty in question as the source of any credit or any aid to the Government, seeing that the latter has promised in the most solemn manner not to touch one cent of the proceeds of the Convention of the year '14, in the belief that it legally devolves upon you to receive them.

In the light of this proviso, which was made to you in the Message of July 20 referred to, the Government would forget its word and give offence to the Republic, if it should break the promises it has made; so that you may be certain, I repeat to you, that in case you approve the bill relative to the Treaty of 1914, by so doing you will not go contrary in any way to your decision, plans, and purposes respecting the resources which, in your wisdom and patriotism, you believe should be withheld from or granted to the Government in power, however difficult may be the situation in which it is placed. That same Government, far from attributing to unreasonableness or injustice the line of conduct you are following in this respect, attributes it, naturally, to your zeal for the public good and to your purpose to fulfill well the trust imposed in you by your fellow-citizens and the Departments of Colombia.

MARCO FIDEL SUAREZ

President

LAUREANO GOMEZ RESTREPO

Minister of Foreign Relations

711.21/668 : Telegram

The Minister in Colombia (Philip) to the Secretary of State

BOGOTÁ, December 24, 1921—6 p.m.

[Received December 26—10:50 a.m.]

64. My 61 of December 22, 5 p.m.¹⁰ Law number 56 approving modifications introduced by the U.S. in the treaty of April 6, 1914,

¹⁰ Not printed.

was signed by Executive and Minister for Foreign Affairs today, the 24th instant.¹¹ Article 2 of this law is embodied in Spanish text of enclosure number 3 with my despatch number 727 of October 17 last¹² and I request that Department delay preparation of our exchange copy of ratification pending my further consultation with Colombian authorities.

PHILIP

¹¹ The modified treaty was presented to the Colombian Congress Aug. 20, 1921, and approved by it on Dec. 22.

¹² Not printed.

COSTA RICA

BRITISH CLAIMS AGAINST COSTA RICA ¹

Refusal by the American Government to Support the British Government in Demanding Arbitration on the Validity of the Amory Concession—Decision by Costa Rica to Accept Arbitration of the Claims of John M. Amory and Son and the Royal Bank of Canada

818.6363 Am 6/60 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, February 14, 1921—5 p.m.

[Received February 15—12:10 a.m.]

12. Minister for Foreign Affairs has just confidentially informed me that he and British Minister have agreed to submit the Amory petroleum concession matter to arbitration and that Spanish Minister (Pedro Quartin) will be requested to act as arbiter.

This probably will result in decision favorable to British interests. Full report by mail.²

THURSTON

818.6363 Am 6/60 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, February 24, 1921—9 p.m.

[Received February 25—11:05 a.m.]

20. British Minister during a conversation last night said if Congress repudiates agreement signed with him by Minister of Foreign Affairs his Government will avail itself of more forceful arguments. He intimated that absolute commercial boycott would be put into effect.

From other sources have learned that he has so threatened Costa Rican Government. England is principal market for Costa Rican coffee and boycott would be very harmful.

It is my opinion that Minister for Foreign Affairs and the President are anxious to accept British terms not only to avoid difficulties but also to diversify oil interests which with sole exception of

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. I, pp. 836 ff.

² Not printed.

Amory holdings are American while Congress, because of feud with Executive Department in addition to its apparent disinclination to yield in the matter, may declare full support of law.³

THURSTON

818.6363 Am 6/66 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, February 25, 1921—5 p.m.

[Received February 27—11:55 a.m.]

22. President of Congress today informed me that agreement signed by Minister for Foreign Affairs and British Minister would be repudiated by Congress. Ex-President of the Republic Gonzalez Flores called to inform me he intended urging Congress to repudiate agreement. Both were most anxious to obtain assurance that the United States would uphold Costa Rica in the difficulties which might result with Great Britain.

Both pointed out that Amory concession was obtained where Americans were restrained from entering Costa Rican field and classified methods employed in obtaining it as notoriously fraudulent. President of Congress stated that concession was obtained under American incorporation by direction of British backers and that tenor of British Minister's notes indicates this procedure to have been adopted as a wartime policy by Great Britain to avoid attracting American attention.

They likewise state that it is highly improper to allow any foreign arbiter to pass judgment on interpretation of Costa Rican Constitution.

THURSTON

818.6363 Am 6/81

Memorandum by Mr. Stewart Johnson, Division of Latin American Affairs, Department of State

[WASHINGTON,] February 26, 1921.

Interview with Doctor Beeche, Minister of Costa Rica, on February 26, 1921, regarding the Arbitration Agreement between Costa Rica and Great Britain in relation to the Amory Concession

As the result of an interview with the Under Secretary, at which Mr. Frost was also present, it was decided to draw the attention of the Minister of Costa Rica to a clause in Article III of the Agree-

³ See telegram no. 52, Aug. 11, 1920, from the consul at San José, *Foreign Relations*, 1920, vol. I, p. 838.

ment of February 14th, between the Minister of Foreign Affairs of Costa Rica and the British Minister, submitting the Amory Concession and the Royal Bank matter⁴ to arbitration, as reported in the Legation's cable No. 18, of February 22, 11 a.m.,⁵ reading "an agreement made and executed in good faith" (referring to the Amory Concession).

Doctor Beeche's attention was called to the fact that from the point of view of this Government the Amory Concession was not entered into in good faith by the Amorys, who are American citizens, insofar as the representations made by the Amorys to the Department, and through the American Legation at San José, with reference to the nationality of the interests seeking the concession, were concerned. I called Doctor Beeche's attention to the fact that the Amorys misrepresented the nationality of the interests backing them, both to the Department and to the Legation at San José at the time the concession was being sought in May 1918, and that by means of an intercepted letter from Restrepo in London to Uribe in San José⁶ it became reasonably apparent that the interests supporting the Amory Concession were British and not American. The letter referred to was brought to the attention of the Tinoco Government at the same time that it was brought to the attention of the American Legation and the State Department prior to the date of the approval of the concession by the Costa Rican Congress. I explained to Doctor Beeche that it was the State Department's desire merely not to acquiesce by silence in the statement appearing in the agreement to which reference is made.

S[TEWART] J[OHNSON]

818.6363 Am 6/68 : Telegram

The Consul at San José (Thurston) to the Secretary of State

SAN JOSÉ, March 7, 1921—9 p.m.

[Received March 8(?)—11:47 a.m.]

42. Congress this evening rejected Amory concession protocol by 24 to 10 votes. Will report promptly any consequences.

THURSTON

⁴ Royal Bank of Canada claim; see *Foreign Relations*, 1920, vol. I, p. 835, footnote 3.

⁵ Not printed.

⁶ Letter not printed; see telegram of June 24, 1918, noon, from the Chargé in Costa Rica, *Foreign Relations*, 1919, vol. I, p. 873.

818.6363 Am 6/75

The British Ambassador (Geddes) to the Secretary of State

No. 233

MEMORANDUM

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and has the honour to inform him that, according to advices received by His Majesty's Government, the Costa Rican Congress has recently rejected an agreement presented to them which would have permitted arbitration in the case of what is known as the Amory Oil Contract which, in common with the other acts of the late régime in Costa Rica, was recently declared invalid by the Costa Rican Congress.

On the instructions of his Government, Sir Auckland Geddes ventures to enquire whether the United States Government would be prepared to associate themselves with His Majesty's Government in demanding arbitration on the validity of this concession, which is owned by companies registered in the United States and in which British capital is interested.⁷

In this connection Sir Auckland Geddes is instructed to suggest that a somewhat similar case has, as the State Department are no doubt aware, recently arisen in Abyssinia where a British subject, acting on behalf of an Anglo-American oil company, has asked for the support of His Majesty's Government in maintaining the rights obtained by a concession.

His Majesty's Government are anxious in both these cases to act, if possible, with the co-operation of the United States Government with the view to obtaining a fair and impartial consideration of the merits of claims in which nationals of both countries are interested.

WASHINGTON, *March 23, 1921.*

884.6363/34

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

No. 4445

LONDON, *April 5, 1921.*

[Received April 19.]

SIR: In confirmation of my telegram No. 277 of to-day's date,⁸ and with reference to the Department's telegraphic instruction No. 176 of March 28, 6 p.m.,⁸ I have the honor to enclose herewith a copy of a report dated April 4, 1921, (Ref. No. 863 RPS.ML) from the

⁷ Apparently no reply was made to this memorandum.

⁸ Not printed.

Consul-General concerning the operations of the Anglo-American Oil Company in Abyssinia, received only just in time for to-day's pouch, in which Mr. Skinner discusses at length the points raised in the Department's aforementioned telegram.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure—Extract]

The Consul General at London (Skinner) to the Chargé in Great Britain (Wright)

863. RPS.ML

LONDON, April 4, 1921.

SIR: I have the honor to refer to a cabled instruction (No. 176) of March 28th 1921 from the Department of State addressed to yourself,⁹ in regard to the activities of the Anglo-American Oil Company in Abyssinia, brought to my attention on Friday last by Mr. Rodgers.¹⁰ The instruction is to the effect that a statement has been made by the British Ambassador at Washington that a British subject in Abyssinia, acting on the part of the Anglo-American Oil Company, has asked for the support of the British Government, and suggests that this support would be forthcoming, should the American Government co-operate in a similar manner in relation to the British controlled concession in Costa Rica. I have now completed my enquiries relative to this matter, and am in a position to confirm the statement I made to Mr. Rodgers, that in all probability there was no foundation whatever for supposing that the Anglo-American Oil Company had sought the support of the British authorities either in Abyssinia or elsewhere; indeed, the very contrary is the case, the British authorities having thrown every possible difficulty in the way of the Anglo-American Oil Company. The implication that the effort of British agents in Abyssinia on behalf of American interests entitled British interests in Costa Rica to the same consideration from our American representatives is wrong, in view of the facts as I have learned them at first hands from members of the American exploring party, who have just returned from North East Africa, and who have been directed to acquaint me with the position by the Directors of the Anglo-American Oil Company.

I am [etc.]

ROBERT P. SKINNER

⁹ Not printed.

¹⁰ J. Donald C. Rodgers, Secretary of Embassy.

818.6363 Am 6/7Sa : Telegram

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

WASHINGTON, April 15, 1921—2 p.m.

216. Address a note to the Foreign Office in the sense of the following.

The attention of my Government has been called to a statement made in the House of Commons on March 1, 1921, by His Majesty's Minister in Charge of Petroleum Affairs, to the effect that His Majesty's Government are aware that the American Consul at San José endeavored to bring about the cancellation of a concession in Costa Rica obtained by a United States company in which British capital was interested.

In Your Lordship's note of August 9, 1920,¹¹ relative to the application of the principle of equality of treatment to the territories of the Near East to be placed under mandates, it was stated that "the United States representative at San José urged the present Costa Rican Government to cancel all concessions granted by the previous Government, the only concession in question being an oil concession granted to a British subject." In my Government's note of November 20, 1920,¹² relative to mandates, no reference was made to this statement, since it appeared irrelevant to the question then under discussion and as possibly tending to confuse the issue. In a communication from Your Lordship, dated February 28, 1921,¹³ in continuation of the mandate correspondence, the observation is made that my Government has not attempted to refute the statement in your note of August 9, 1920, concerning the alleged action "of the United States Government".

In view of the interest shown in the matter by His Majesty's Government, I take pleasure in conveying information that may serve to correct mistaken impressions and make clear the position that has been assumed by the Government of the United States with respect to the Amory oil concession.

Your Lordship is no doubt aware that the Government of the United States made public announcement that it would not consider as worthy of its diplomatic support any claims of American citizens arising from a business transaction with the Tinoco administration of Costa Rica.¹⁴ The attitude assumed by my Government with respect to American citizens asserting an interest in the Amory concession has been based upon its general policy toward a usurping revolutionary regime in Costa Rica which was never accorded recognition by my Government and which on September 2, 1919, passed out of existence. Although the Government of the United States has, in pursuance of this general policy, consistently refused support to American citizens asserting an interest in the concession, the action

¹¹ See telegram no. 1205, Aug. 11, 1920, from the Ambassador in Great Britain, *Foreign Relations*, 1920, vol. II, p. 663.

¹² *Ibid.*, p. 669.

¹³ See telegram no. 160, Mar. 1, from the Ambassador in Great Britain, vol. II, p. 80.

¹⁴ See telegram of Feb. 22, 1917, 4 p.m., to the Minister in Costa Rica, *Foreign Relations*, 1917, p. 308.

taken by the American Consul at San José several months before the annulment of the concession, which is apparently the action referred to by Your Lordship and by the Minister in Charge of Petroleum Affairs, was never authorized or approved by my Government.

Nevertheless, it is difficult to perceive how any such action during the period prior to the annulment of the concession would furnish necessarily an occasion for justifiable criticism on the part of His Majesty's Government. As late as July 2, 1920, the American company holding the concession, in its communications to the Department of State, concealed the participation of British interests in the project. Moreover, the Government of the United States is not aware of any official communication from His Majesty's Government, stating that the actual control of the Amory concession was in the hands of British citizens, until the receipt on August 12, 1920, of Your Lordship's note of August 9, 1920, setting forth that the concession had been granted to a British subject. There was also, as my Government has learned, a communication on the subject from the British Government to the Costa Rican Government, dated July 13, 1920; but this communication does not appear to have been published until August 27, 1920. As your Lordship is aware, the concession was annulled by the Costa Rican Government on August 11, 1920.

HUGHES

818.6363 Am 6/65

The Secretary of State to President Harding

WASHINGTON, April 15, 1921.

THE PRESIDENT: The undersigned, the Secretary of State, to whom was referred the Resolution adopted by the Senate on February 14 (calendar day, February 22), 1921, requesting the President, "if not incompatible with the public interests, to transmit to the Senate such data and information as he may have relating to the acquisition of what is known as the Amory oil concession to certain subjects of Great Britain in Costa Rica, the time and manner of the acquisition of such concession, its extent, and the present status of the controversy between the Governments of Great Britain and Costa Rica relative to the same, including particularly a copy of a letter—if such is in the possession of our Government—written by a British subject to a certain Doctor Urribo in Costa Rica, purporting to give certain facts relative to the acquisition of said concession; also such data and information as may be available touching another oil concession known as the Pinto-Greulich concession,¹⁵ the time and manner of its acquisition, its extent, and its present status. Secondly, such data and information as may be available relative to the visit of Mr.

¹⁵ For other correspondence concerning the Pinto-Greulich concession, see pp. 668 ff.

Bennett, British minister, to Costa Rica lately made, and the note which he dispatched to the Costa Rican Government demanding an adjustment of the Amory oil concession and certain other claims of British subjects," has the honor to report as follows:

The several requests of the Senate embodied in Senate Resolution No. 460 of February 22, 1921, refer particularly to two contracts relating to petroleum rights in Costa Rica, namely, the Amory concession and the Pinto-Greulich concession. The two contracts refer to different areas; and it is understood that no conflict would exist between their respective provisions, if or when they are in effect. It is believed, accordingly, that, instead of following the order of the requests embodied in the Senate Resolution, it will conduce to a clear presentation of the subject to arrange information relating to the Amory concession in one section of this report and to gather corresponding information relating to the Pinto-Greulich concession in another and separate section.

SECTION I

A contract, known as the Amory Oil Concession, was signed on May 6, 1918, by the Minister of Fomento for the Costa Rican Government, and by Miguel D. Ferrer, attorney for Messrs. John M. Amory and Son of 52 Broadway, New York. The contract was approved by the Executive on May 7, 1918, referred to the Costa Rican Congress on May 14, 1918, and published in the *Official Gazette* on May 16, 1918. The contract was approved by the Congress of Costa Rica and by the Executive on June 25, 1918, and was published as a law of Costa Rica in the *Official Gazette* on June 26, 1918. This action was taken by the Costa Rican authorities during the so-called Tinoco administration.

The contract in question as set forth in the translation forwarded by the American Legation at San José on July 6, 1918,¹⁶ provides (Article II) that the concessionaire shall be entitled for a period of twelve years to investigate or cause to be investigated the territories in the provinces of Cartago, Alajuela, Heredia and San José with the object of discovering petroleum deposits, and shall have the exclusive right during such period and within such territory to locate and survey or cause to be located and surveyed the deposits which it desires to work, and during the life of the contract, which by Article XV is to remain in force for fifty years, to develop and exploit or cause to be developed and exploited the petroleum deposits within the territories granted and which may have been located, surveyed and explored by him or for his account.

¹⁶ Not printed.

By Article IV, of the contract, the concessionaire is granted the right to lay and operate pipe lines and pumping stations; to transport petroleum by land and by sea; to erect and operate refineries; to build and operate wells, aqueducts, roads, railroads, tramways, canals, wharves, lighthouses, warehouses, engineering and repairing shops, telephones, electric plants and transmission lines, as may be required or useful for the extraction, transportation and handling of petroleum and allied substances; to use and occupy the public roads and the vacant or national lands, as may be required for such purposes, but without prejudice to third parties; to use the rivers, streams and water courses for the installation and operation of hydraulic and electric plants, as required for the purposes of the undertaking; and to cut timber and use building material on the national lands for the same purpose.

Article VII of the concession fixes the royalty to be paid the Government at 25 cents per metric ton on hydrocarbons exported or sold, and by Article VIII, the concessionaire agrees to furnish oil for the railways of the Government and available natural gas for the public buildings.

By Articles X and XII, the concessionaire is exempted from duties and taxes except "National taxes payable by the public in general."

Under Article XI, the concessionaire is granted the right to mine, and to use, for the purposes of the concession and to send and export, any coal which he may find within the territories granted.

Article XV provides that at the end of the before mentioned period of fifty years the "deposits and sources and all national lands occupied in accordance with this contract, shall revert to the Republic as its property." It is, however, provided by this Article that, if at the expiration of the fifty year period the Government desires or intends to grant further petroleum concessions in the areas comprised in this contract, the concessionaire shall have a preferential right to a new contract. The concessionaire is given by Article XVII the right to transfer the concession to a corporation to be known as Central Costa Rica Petroleum Company and undertakes to organize such corporation within four years from the official publication of the concession.

A copy of a translation of the contract as published in the *Official Gazette* of June 26, 1918, is enclosed with this report.¹⁷

With respect to the request in the Senate resolution for a copy of a letter, if such is in the possession of this Government, written by a British subject to a certain Doctor Urribo in Costa Rica, purporting to give facts relative to the acquisition of the Amory Concession,

¹⁷ Not printed.

it may be said that the Department of State has in its files what purports to be a copy of a letter addressed by one Saturnino Restrepo to a certain Doctor Eduardo Uribe, dated May 21, 1918. This letter appears to have been mailed while the granting of the Amory Concession was under consideration in the Costa Rican Congress. While it is not known that Saturnino Restrepo was at the time or is now a British subject, it would seem probable that the letter a copy of which is in the files of the Department of State is the one referred to in the Senate resolution. The Department of State understands that the letter was published and widely circulated in August, 1919, in a pamphlet entitled "*Which*", prepared by Lincoln G. Valentine, but since it is a private communication and not in the possession of this Government, it has not seemed proper to attach a copy to this report.

The interests that are now in control of the Amory Concession would seem to be indicated by the following excerpt from an address by Mr. D. Elliott Alves, President of the British Controlled Oilfields, Ltd., at a general meeting of the shareholders of the company at Montreal, Canada, December 28, 1920, as published in the *London Times* of January 6, 1921:

"The Government concession granted by this Republic (Costa Rica) covers approximately 6000 square miles. Drilling outfits have already reached Port Limon for distribution to drilling sites, but the considerable drilling operations and development which had been planned have been seriously prejudiced by the action of the present Government, who have issued a decree annulling the concessions which were granted under the former Government. It is believed that foreign oil interests have intrigued to this end, and the action of the present Government has necessitated the stoppage of all operations for the time being. The company are vigorously defending their position, and the directors are gratified to be able to report that the company are receiving the powerful support of the British authorities, and as the directors are advised by our local representatives that the action of the present Government is entirely unconstitutional, it is believed the Company's interests will not be seriously prejudiced."

It may also be of interest in this connection to quote certain published statements made by Mr. D. Elliott Alves relative to the organization and policy of the British Controlled Oilfields, Ltd:

"Machinery has already been created, as I had occasion to mention at a previous meeting, which places the whole of the oil supplies which may be obtained from this vast chain of territories, should they each, or, in fact, any number of them, prove of the value anticipated, absolutely under British control.

"A voting trust has been created, which will be permanent, and the result of which will be that, no matter who may acquire controlling share interests, however financially powerful they may be, can ever divert a single barrel of oil from national or Imperial re-

quirements. For all time in some instances, and in others for the full life of the concessions, adequate supplies of oil, we may confidently assume, should the fields develop at the ratio we are led to believe they will, will be at the disposal of either the Imperial Government or the nation."

On July 20, 1920, the Costa Rican Congress passed an act declaring null and void all acts of the Tinoco Administration, with certain exceptions, between January 27, 1917, and September 2, 1919. The act was repressed over the President's veto on August 11, 1920, and, embodied in Decree No. 41, dated August 21, 1920, was published on August 22, 1920, in the *Official Gazette*.

The circumstance that the persons to whom the Amory concession was nominally granted were of American nationality raised the question of the support which might properly be given to the undertaking by this Government. The company holding the Amory concession, in its communications to the Department of State, persistently concealed the participation of foreign interests in the project. The Department of State, however, declared publicly some time prior to the negotiation of the Amory concession that it would not consider any claims of American citizens arising from a business transaction with the Tinoco Administration as worthy of its diplomatic support.¹⁸ The attitude assumed by the Department of State toward the Amory concession was based upon its general policy toward a usurping, revolutionary regime in Costa Rica which was never recognized by this Government and which passed out of existence on September 2, 1919.

With respect to the present status of the discussion between the Governments of Great Britain and Costa Rica relative to the Amory Concession, it may be said that there was published in the *Diario Del Comercio* of San José, in the issue of August 27, 1920, the text in Spanish of various notes exchanged between representatives of the British Government and officials of the Costa Rican Government. Notes from the British Consulate at San José on the subject were dated July 13, 1920, August 11, 1920, August 24, 1920, and a note from the Minister for Foreign Affairs of Costa Rica was dated August 19, 1920. A note on the same subject from the British Consulate at San José dated September 20, 1920, and the reply of the Costa Rican Government, dated September 29, 1920, were published in the *Official Gazette* of October 5, 1920. It is understood that the representatives of the British Government in Costa Rica addressed further communications on the same subject to the Costa Rican Government on December 27, 1920, January 9, 1921, and Feb-

¹⁸ See telegram of Feb. 22, 1917, to the Minister in Costa Rica, *Foreign Relations*, 1917, p. 308.

ruary 24, 1921; and that, on February 14, 1921, the Minister for Foreign Affairs of the Costa Rican Government and the British Minister at San José signed an agreement providing that certain questions relative to the Amory Concession should be submitted to the arbitration of the Spanish Minister at San José; that the decision of the arbiter should be made within thirty days following the agreement, and that the agreement should be ratified by the Costa Rican Congress within fifteen days. The question proposed for submission to arbitration is understood to have been stated substantially as follows:

“If the declaration of nullity of said contract should be upheld according to Clause ‘B’ of Article I of the law dated August 21, 1920, or if, in accordance with the fundamental charter of Costa Rica and the established principles of international law, this invalidity should not be held to apply to an agreement made in good faith, since the declaration of nullity is contrary to the constitution of the Republic.”

The agreement appears to have been rejected by the Costa Rican Congress on March 7, 1921, by a vote of 24 to 10.

It is understood that Mr. Percy Bennett has been appointed British Minister at San José; that he arrived at San José on December 4, 1920, and that he assumed his official functions on December 6, 1920.

Various notes addressed by British representatives at San José to the Costa Rican Government have been published in the *Official Gazette* and are hereinbefore referred to in connection with the question of the present status of the controversy between the Governments of Great Britain and Costa Rica relative to the Amory Concession.

SECTION II

The contract known as the Pinto-Greulich Concession was signed on September 23, 1915, by Dr. Enrique Pinto F., Minister of Fomento for the Costa Rican Government, and Dr. Leo. J. Greulich of New York. The contract was approved by President Alfredo Gonzales and referred to the Costa Rican Congress. After a prolonged discussion and the insertion of many modifications, Congress approved the modified contract on August 12, 1916.

The legislative decree No. 51 embodying the approval of Congress was sent to the Executive and on August 21, 1916, the Executive returned the contract disapproved.

It appears that the President's veto message was signed by him alone, and did not bear the signature of the Minister of Fomento. For this reason it was contended by the President of Congress, in a

letter to the President of the Republic, on September 5, 1916, that the veto was void, and therefore the Legislative Decree No. 51, had become a law without executive approval. This view was combated in a letter from the President of the Republic to the President of Congress, dated September 6, 1916. (*Official Gazette*, No. 58, September 7, 1916.)

On October 28, 1916, the President of the Republic issued Executive Decree No. 5, calling a special session of Congress for November 6, 1916, to consider among other things, the veto in question. (*Official Gazette*, No. 101, October 29, 1916).

Congress met under this call, and on November 6, 1916, received a message from the President stating, in effect, that he considered the contract in question to be dangerous for the future of the Nation and failing to meet its true interests, but added that if Congress did not concur, its "constitutional ratification" would be the "last word in the matter." (*Official Gazette*, No. 108, November 7, 1916).

The President's message was referred to the same Committee which reported on the contract, and that Committee made a further report concluding that said Legislative Decree No. 51, had become a law of the Republic, without the Executive approval. The Committee's conclusion seems to have been based upon the absence from the veto of the signature of the Minister of Fomento. (*Official Gazette*, No. 109, November 8, 1916). The last-mentioned report of the Committee was confirmed by Congress on November 10, 1916, by a vote of 30 to 4. The contract, after this second vote of Congress, was duly published in the *Official Gazette*, No. 113 of November 12, 1916.

The contract in question provides (Article X) that the concessionaire shall have the exclusive right for the term of four years from the publication of the contract in the *Official Gazette* to explore or cause to be explored all oil deposits in the Provinces of Limon, Puntarenas and Guanacaste and during such period and within such territory to locate and measure or cause to be located and measured the deposits which he desires to work during the term of the contract and that the presentation to the Minister of Fomento during the year following the publication of the contract of plans of surveys would reserve to the contractor the deposits comprised within the limits of such surveys, not to exceed, however, a total area of 4,000 square kilometers, and that the contractor should have the exclusive right to exploit all such deposits and that the sub-soil rights to the deposits should be his exclusive property during the term of the contract. This article further provides that the surface rights should be retained by the owner, but, "with the exception of those which may be necessary for the enterprises of the contractor."

The term of the contract is set forth in Article XV as 50 years from the date of the publication of the law approving the contract, at the end of which period it is provided that the "deposits, springs and national lands which may have been occupied" will become the property of the State. It is, however, provided by this Article that if at the expiration of the 50 years the contractor should desire to continue the exploitation he shall have a preferential right to a new contract and to continue to occupy the national lands.

Article XVI of the contract obligates the contractor to organize within a year a corporation to be called "the Costa Rica Oil Corporation" and to transfer to that company all the rights and privileges of the contract. He is prohibited, however, by this Article from making such a transfer to a foreign State or Government, and in Article XIII it is provided that "the present contract will become extinct and the Government can so declare it affirmatively [*administratively*]" *inter alia*, "if it be transferred, be it by means of sale, lease, mortgage, or any other means, to any of the syndicates at present existing, or which later on might exist, for the exploitation of commerce of petroleum, excepting with the previous consent of the Executive Power".

In addition to an obligation to invest certain sum of money within specified periods and to develop certain portions to guarantee fulfillment of his obligations, the contractor promises in Article V to pay to the Costa Rican Government and to private persons who have ceded him their rights 15¾ per cent of the value of the substances extracted from the soil by virtue of the contract, and it is set forth that this value shall be the average price obtained by the company during each year for the crude product at the mouth of the well. The contractor agrees to furnish free of cost, crude petroleum which the Government may desire to use in operating existing Government railroads, and gas for the lighting of Government and municipal buildings and schools.

A copy of a translation of the contract, as published in the *Official Gazette* of November 12, 1916, is enclosed with this report.¹⁹

Following the official publication of the law approving this contract, a contract was signed on December 23, 1916, under which the interests represented by Mr. Henry F. Sinclair undertook to acquire the shares of Mr. Lincoln G. Valentine and his associates in the Costa Rica Oil Corporation, which had been formed and had taken over the contract as provided therein. This contract was based on the proviso that legal opinion should hold that the concession was valid in all respects. Apparently satisfied on this point, the Sinclair interests thereafter organized the Sinclair Central American Oil

¹⁹ Not printed.

Corporation for the purpose of carrying out the agreement of December 23, 1916, the concession remaining vested in the Costa Rica Oil Corporation.

It is understood that steps were immediately taken to begin exploration in accordance with the terms of the contract. A complete geological expedition, consisting of twenty technical men and the necessary laborers, was organized; and this expedition, in charge of Dr. Donald F. MacDonald, formerly geologist of the United States Geological Survey and of the Panama Canal Commission, began work in Costa Rica on March 7, 1917. It is also understood that during the year 1917, in addition to the geological work, the company caused eight pits to be sunk in the concession area from which small amounts of petroleum were collected, and that, in July, 1917, the company, having received preliminary reports from its geologists, commenced to assemble material and supplies for the purpose of drilling a deep well. For about a year, the War Trade Board, in connection with its control of exports during the war, prevented the exportation of the necessary drilling equipment and supplies; but as soon as the exportation order was obtained materials and supplies appear to have been shipped to Costa Rica and to have arrived in that country about December 15, 1918. The first well was commenced at Talamanca near Uscari on March 8, 1919. This well was commenced eight months before the expiration of the time required under the terms of the concession for the commencement of exploitation work. A small amount of oil was found in this well at a depth of 618 feet and it was drilled to a depth of 1100 feet when the casing collapsed. Such material as could be saved was moved to a nearby spot where a second shaft or well was started on June 1, 1920, which was drilled to a depth of 1318 feet when the casing again collapsed. A small amount of oil was encountered in this well at 688 feet.

Steps were immediately taken to select a new site and on November 27, 1920, this was fixed at Cahuita. The company states that it has completed the construction of a camp at this locality.

The company reports that it has completed the survey of the 4000 square kilometers which it is entitled to retain and has notified the Costa Rican Government that it relinquishes all rights in the Provinces of Puntarenas and Guanacaste and that the area it retains occupies a belt along the Atlantic coast extending from the Panaman to the Nicaraguan boundary.

The contract stipulates that the contractor must expend during the first two years, that is, between November 12, 1916, and November 11, 1918, a sum of 200,000 colones in exploration and during the next three years, which period expires November 11, 1921, the sum

of 250,000 colones in exploration or exploitation. The company reports a total expenditure of 308,009 colones during the first two years, which expenditure has been acknowledged by the Costa Rican Government by the return of the bond deposited by the company. Between the beginning of the second period and October 1, 1920, the company reports expenditures for exploration and exploitation of 1,580,898 colones.

On October 25, 1920, the Minister of Fomento addressed a communication to the Costa Rica Oil Corporation calling upon the company to submit a general and complete report of its operations and negotiations since November 12, 1916, suggesting that the acquisition of the control of the Costa Rica Oil Corporation by the Sinclair Central American Oil Corporation was a violation of the contract, notwithstanding the fact that the ownership of the concession was and is vested in the Costa Rica Oil Corporation, and indicating that the Government believed that the requirement that the company begin exploitation within three years means that the company must produce and market Costa Rican oil within that period. This communication was published in the *Official Gazette* of October 30, 1920. The reply of the Costa Rica Oil Corporation to this communication, dated November 8, 1920, was also published in the *Official Gazette*.

There was published in the *Official Gazette* of December 16, 1920, a Resolution passed by the Costa Rican Congress on August 16, 1920, recommending to the Government that it begin an action as soon as possible in the Costa Rican courts for the cancellation of the Pinto-Greulich contract.

It may be added that the Department is informed that a controversial question has arisen between the owners of the Pinto-Greulich Concession and certain other American concerns regarding the ownership of subsoil products in lands which fall within the limits of the concession, these subsoil products being claimed by these concerns under grants said to antedate the concession.

Respectfully submitted,

CHARLES E. HUGHES

818.6363 Am 6/85

The British Ambassador (Geddes) to the Secretary of State

No. 356

WASHINGTON, May 9, 1921.

MY DEAR MR. SECRETARY: In conversation in regard to the Amory concession on the 29th ultimo you informed me that you believed it to be a fact that the holders of the concession now had access to the Courts in Costa Rica.

I have made enquiry at San José and I find that no doubt an appeal to the Courts would lie to test the validity of Law 41, the measure under which the concession was cancelled.

I should, however, mention that, according to my information, one of the first acts of the present Costa Rican Congress was to remove the justices from the Supreme Court Bench and, without regard to constitutional practice, to appoint their own nominees to the vacancies thus created. This course was adopted for the very purpose of upholding confiscatory measures such as Law 41, to the policy embodied in which, both the Costa Rican Government and a number of other Costa Rican notables have declared themselves to be opposed.

In the circumstances, an appeal to the Courts on this particular question could not, I think, be expected to convince the holders of the concession that their case would receive an impartial hearing by the Supreme Court of Costa Rica.

It is on the ground of the very special circumstances which I have explained above that His Majesty's Government consider that the only fair way to obtain a settlement of this question is to have recourse to arbitration. To admit the validity of confiscatory legislation of this character would create, to my mind, a most dangerous precedent, apart altogether from the question of the interests involved. We should in fact be accepting in Costa Rica that to which we so strongly object in Mexico. Having regard to these considerations I still hope that the American Government will see their way to support our demand for arbitration. As the matter is becoming more and more urgent, I should be particularly grateful if you would give the matter further consideration in the light of what I have explained above and let me have a statement of your views at the earliest possible moment.

Believe me [etc.]

A. C. GEDDES

818.6363 Am 6/85

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *May 24, 1921.*

MY DEAR MR. AMBASSADOR: I have received your letter of May 9, in which you refer to the Amory concession and state that while you have ascertained that there is no doubt that an appeal by the holders of the concession to the Courts would lie to test the validity of Law 41, the measure under which the concession was cancelled, you do not feel that the holders of the concession would be convinced that their case would receive an impartial hearing by the Supreme Court of Costa Rica in view of the manner in which the Justices of the Supreme Court were appointed.

Upon investigation, I find that Federico Tinoco appointed several Justices of the Supreme Court by Executive Decree on April 12, and June 4, 1917, and that these appointments were confirmed by a Constitutional Assembly in accordance with Article 3 of the "Transitory Provisions" of a Constitution which did not come into force until June 8, 1917. Article 108 of that Constitution provided that appointments to the Supreme Court should be made by the Senate from a list of candidates submitted by the House of Deputies. As this procedure was not followed, it was held, even during the Tinoco administration, that the appointments to the Supreme Court made by Federico Tinoco had been in violation of the very Constitution which he himself had promulgated.

After the downfall of Tinoco, upon the reestablishment of the Constitution of 1871, it [*which*] had been temporarily superseded by the Tinoco Constitution of 1917, it was held that the Tinoco appointees to the Supreme Court had never held valid appointments and should be replaced by Justices appointed in accordance with the Constitution of 1871. The Costa Rican Congress therefore, as you state, did remove the Tinoco appointees from the Supreme Court Bench. They were, however, removed because of the fact that their appointment was considered to be illegal, and their successors were appointed in strict accordance with the provisions of the Constitution now in force.

In the circumstances I find it impossible to escape the conclusion, as stated in the interview to which you refer in your letter, that the holders of the concession have access to the courts of Costa Rica, constitutionally set up, in which the matter in dispute may be the subject of appropriate judicial determination.

You will understand, of course, that this Government does not oppose an arbitration if that course should commend itself to the Costa Rican authorities.

Believe me [etc.]

CHARLES E. HUGHES

818.6363 Am 6/90 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, July 15, 1921—10 a.m.

[Received July 16—9:45 a.m.]

108. The Minister for Foreign Affairs has just called to show me a note, dated July 13th, which he has received from the British Minister on the subject of the Amory petroleum concession and the Royal Bank of Canada bills. The note submits to the most serious consideration of the Government of Costa Rica a review of the negotiations which terminated last March and states, "that in the

circumstances His Majesty's Government have no alternative but to present a demand to the Costa Rican Government to the effect that British rights in Costa Rica should be exempted from the operation of law 41."

The note then states, "that His Majesty's Government are prepared to accept a settlement of pending claims in one of two ways, either by direct Executive and congressional action or by means of an agreed arbitration between His Majesty's Government and the Government of Costa Rica", and concludes with the hope that Costa Rica will accept this final opportunity for an amicable settlement. When delivering this note the British Minister stated that as a result of an understanding with Washington the British Foreign Office has *carte blanche* with respect to the Amory Concession negotiations it now resumes.

The Minister for Foreign Affairs apparently is alarmed by the tone of the British note and feels that satisfactory negotiations are impossible. Despatch follows.²⁰

THURSTON

818.6363 Am 6/90 : Telegram

The Secretary of State to the Chargé in Costa Rica (Thurston)

WASHINGTON, July 19, 1921—5 p.m.

36. Your 108, July 15, 10 a.m.

You may advise the Minister for Foreign Affairs that the statements made by this Government to the British Government with respect to the Amory concession can not be construed as granting the British Foreign Office *carte blanche* in negotiations with the Government of Costa Rica regarding that concession in the sense that the result would be in any way binding upon the United States. The Department has advised the British Government that in its opinion the holders of the concession have access to the courts of Costa Rica, constitutionally set up, in which the matter in dispute may be made the subject of appropriate judicial determination. The British Government was further advised that this statement should not, however, be taken as implying that the Government of the United States would oppose an arbitration if that course should commend itself to the Costa Rican authorities.

When this explanation of the negotiations between this Government and the British Government has been made to the Minister for Foreign Affairs, you should add that while this Government would not oppose arbitration of the question if the Costa Rican

²⁰ Not printed.

authorities desire it, this Government and its nationals could not consider themselves bound by any arbitral award which might be rendered as they would not be parties to the arbitration.

HUGHES

818.6363 Am 6/92 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, July 21, 1921—9 a.m.

[Received July 22—11 a.m.]

111. President Acosta yesterday submitted British note to Congress requesting its opinion before he concludes any new agreement on the subject.

THURSTON

818.6363 Am 6/95 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, August 12, 1921—10 a.m.

[Received 10 p.m.]

114. My July 21st, 9 a.m. Foreign Relations Committee of Congress yesterday rendered report on British demands. Report denies ability of any foreign power to declare a Costa Rican law unconstitutional and reaffirms validity of law 41. Suggests that under provisions of law 41 possibility may exist of excepting Amory contract from its provisions, this question to be submitted to an arbitrator but the decision whether such arbitrations shall be resorted to must be made by Executive. Declared the Royal Bank of Canada matter must be submitted to the courts.

It is stated that designation Ricardo Jimenez ²¹ will be insisted on by Congress as arbitrator of Amory question.

THURSTON

818.6363 Am 6/98 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, August 18, 1921—5 p.m.

[Received August 19—10:10 a.m.]

118. My August 12th, 10 a.m. British Minister insisting on immediate convoking of Congress to special sessions in order that it may reconsider its decision on Royal Bank matter, which he demands shall be arbitrated.

²¹ Ex-President of Costa Rica.

President Acosta states Costa Rica will propose Chief Justice Taft as arbitrator of both British claims.

THURSTON

818.51/185 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, October 24, 1921—9 a.m.

[Received October 25—9:55 a.m.]

129. President Acosta last night informed me Royal Bank of Canada volunteers to advance large loan to Government of Costa Rica and to undertake consolidation of foreign and internal debts of the Republic. He conveyed to me the impression that Huete's²² visit to the United States had been unsatisfactory and that British proposal was found very interesting.

THURSTON

818.032/40 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, November 6, 1921—8 a.m.

[Received 8:05 p.m.]

130. My 129, October 24, 9 a.m. President Acosta last night signed decree convoking Congress to extra sessions to begin November 14th to deal with proposed loan from Royal Bank of Canada.

THURSTON

818.6363 Am 6/108 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, November 15, 1921—8 a.m.

[Received 8:40 p.m.]

131. My 114 August 12, 10 a.m. and 118 August 18, 5 p.m. British Minister delivered note dated November 8th to the Minister for Foreign Affairs respecting Amory petroleum and Royal Bank of Canada claims which is virtually an ultimatum. British war vessel due today at Puerto Limon probably for the purpose of lending weight to note.

The note states that patience of British Government is exhausted; that Royal Bank claim shall not be submitted to Costa Rican courts; that unless Royal Bank claim is settled by direct action the British Government expects it and the Amory claim to be submitted to

²² Costa Rican Minister of Finance.

arbitration at an early date, and that the choice of Chief Justice Taft as arbitrator is agreeable.

Direct settlement of the Royal Bank claim is provided for in the contract of the loan offered by that institution to the Costa Rican Government which is now being studied by Congress, called to extra session for that purpose. It is possible that British Minister's note is designed to bring pressure upon Congress and thus secure through acceptance of loan settlement of claim. The Minister for Foreign Affairs believes Congress will reject loan agreement and thus bring about difficult situation, for Congress insists Royal Bank claim must be submitted to courts while British Government insists on arbitration.

THURSTON

818.51/190 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, November 26, 1921—10 a.m.

[Received 11:55 p.m.]

136. My 134 November 22, 10 a.m.²³ Congress last evening by 25 to 13 votes approved committee report unfavorable to Royal Bank loan.

THURSTON

818.6363 Am 6/112 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, December 14, 1921—10 a.m.

[Received December 15—9:30 a.m.]

139. My 135.²³ Congress yesterday approved report of Committee on Foreign Affairs permitting arbitration of Amory petroleum and Royal Bank claims. Details by mail.²³

THURSTON

818.6363 Am 6/114 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, January 13, 1922—9 a.m.

[Received January 14—3:42 p.m.]

144. My 139, December 14, 10 a.m. British Minister and Costa Rican Government last evening reached an agreement concerning convention requiring approval of Congress under which Amory

²³ Not printed.

and Royal Bank claims are to be submitted to arbitration of Chief Justice Taft.²⁵ British Minister left this morning for Panama.

THURSTON

**DEMAND BY COSTA RICA FOR ARBITRATION OF ITS DISPUTE
WITH THE COSTA RICA OIL CORPORATION²⁶**

818.6363/76 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, May 28, 1921—12 p.m.

[Received May 29—3:11 p.m.]

94. Mr. Martin's despatch number 13 November 10th, 1920.²⁷ Minister of Fomento has addressed a note to Costa Rica Oil Corporation insisting on arbitration of differences within 14 days from May 23d.

Minister for Foreign Affairs has informed me settlement of status of this company must be made and that cash payment for privilege of explorations already effected must be made. I do not believe the intention is to disable the company but probably to restrict it and obtain money from it.

THURSTON

818.6363/99 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, December 24, 1921—1 p.m.

[Received 6 p.m.]

141. My despatches 106, 120 and 174.²⁸ Government has delivered ultimatum to the Costa Rica Oil Corporation demanding immediate reference dispute to sole arbitrator. Oil corporation privately informed President Acosta has announced that he intends to declare forfeiture of corporation and that he has assurance of Department

²⁵ The English text of the amended Alvarado-Bennett convention is printed in *British and Foreign State Papers*, vol. 116 (1922), p. 438.

For the award rendered by Chief Justice Taft at Washington, Oct. 18, 1923, see *Fallo Arbitral del Chief Justice de los Estados Unidos de America sobre las Reclamaciones del Royal Bank of Canada y de John M. Amory & Son*, San José, Costa Rica, Imprenta Nacional, 1924.

²⁶ For previous correspondence concerning the dispute over the Pinto-Greulich concession, see *Foreign Relations*, 1920, vol. I, p. 839 ff; see also *ante*, pp. 657-661.

²⁷ *Foreign Relations*, 1920, vol. I, p. 843.

²⁸ None printed.

of State that such action will not be opposed. Please refer to penultimate paragraph of your instruction No. 7 December 13, 1920.²⁹ Is it desired that the Legation take any action?

THURSTON

818.6363/99 : Telegram

The Secretary of State to the Chargé in Costa Rica (Thurston)

WASHINGTON, December 31, 1921—1 p.m.

50. Your December 24, 1 p.m. The Department has given no such assurances as you mention.

If corporation desires that representations be made, request Foreign Office to state what justification there is for demand that questions in dispute with Costa Rican Oil Corporation be arbitrated otherwise than as provided in corporation's concession. Add that arbitrary cancellation concession would presumably result in filing of international claim to which Department would necessarily give careful consideration.

HUGHES

FEDERATION OF CENTRAL AMERICAN REPUBLICS

(See pages 143 ff.)

DENUNCIATION BY COSTA RICA OF THE TRADE-MARKS CONVENTION OF AUGUST 20, 1910

(See pages 164 ff.)

BOUNDARY DISPUTE WITH PANAMA

(See pages 175 ff.)

²⁹ *Foreign Relations*, 1920, vol. I, p. 845.

CUBA

ELECTION OF PRESIDENT ZAYAS¹

Arrival of General Enoch H. Crowder in Cuba—Supplemental Partial Elections of March 15 and 26, 1921; Decision by the Liberal Party not to Participate—Statement by the United States Government Accepting the Results of the Partial Elections—Drafting of a Program of Administration by President Zayas—Invitation to General Menocal to Call at the Department When Passing through the United States after His Retirement

837.00/1948: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

HABANA, January 3, 1921—5 p.m.

[Received January 4—12:30 a.m.]

1. The Minister for Foreign Affairs has just advised me that the fact that the Liberals are already interpreting the visit of General Crowder as a victory for them and direct reflection [on] the President of Cuba may make it impossible for him to receive the General.

I informed Doctor Desvernine that no one knew better than he how unreasonable such claims were. He enlarged upon how such a mission coming [unannounced?] would affect adversely the prestige of President Menocal and observed that if our Government had announced that General Crowder was coming on a mission of friendship to study Cuba's immediate needs it would have rendered more agreeable a trying situation.

LONG

837.00/1949: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

HABANA, January 3, 1921—7 p.m.

[Received January 4—12:22 a.m.]

2. Personal attention Norman Davis² and Third Assistant Secretary of State:³

After sending January 3, 5 p.m. President Menocal invited me to Palace and in the presence of Minister for Foreign Affairs explained

¹ For previous correspondence concerning political affairs in Cuba, see *Foreign Relations*, 1920, vol. II, pp. 1 ff.

² Under Secretary of State.

³ Van Santvoord Merle-Smith.

that he could not receive General Crowder because of the manner in which he has been [sent]. President Menocal appeared deeply aggrieved and asserted that he had endeavored to work in harmony with our Government and he could not understand General Crowder's being sent on a warship without our first observing the formalities customary among friendly nations. After a prolonged discussion Menocal stated that should Crowder's arrival be delayed until there could be an exchange of notes stating the fundamental reasons for his visit, that he would be disposed to give favorable consideration to having the General continue his journey. The notes are evidently to be used as basis for communication to press and I urgently request instruction as to the Department's attitude and what steps if any are to be taken by the Legation.

LONG

837.00/1950 : Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

HABANA, January 4, 1921—noon.

[Received 5:06 p.m.]

3. The Department's December 31, 6 p.m.,⁴ was delivered here early this morning; at midday its purport was conveyed to the President. At his instance a note in the same sense will be sent this afternoon to the Foreign Office. The President's attitude regarding receiving Crowder impresses me as undergoing a change from that reported in my January 3, 7 p.m.

LONG

837.00/1949 : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, January 4, 1921—1 p.m.

3. Your 1 and 2, January 3, 5 and 7 p.m.

You may state to President Menocal and to the Minister of Foreign Affairs that on account of the special relations existing between Cuba and the United States it has not been customary, nor is it considered necessary, for the President of the United States to obtain the prior consent of the President of Cuba to send a special representative to confer with him regarding conditions seriously affecting the interests of both Cuba and the United States. Department's December 31, 6 p.m.⁴ explained clearly the fundamental reasons for the visit of General Crowder and in the opinion of this

⁴ *Foreign Relations*, 1920, vol. II, p. 43.

Government should have made plain to President Menocal the friendly purpose of General Crowder's mission.

The White House yesterday issued the following statement which clearly shows the purpose of General Crowder's mission and should meet any reasonable objections of President Menocal:

"Upon instructions of the President, Major General Enoch H. Crowder has sailed for Havana, Cuba, on the U.S.S. *Minnesota*. General Crowder goes to Cuba to confer with President Menocal regarding conditions in Cuba. The moratorium and financial crisis in Cuba continue, the solution of which appears more difficult on account of the unsettled Presidential election. A continuation of the present situation would prove most detrimental to the prosperity of Cuba and harmful to the relations between the United States and Cuba. As this cannot but be a matter of the closest concern to this Government because of the special relations existing between the two countries, the President has instructed General Crowder to confer with President Menocal as to the best means of remedying the situation."

You may then state to President Menocal that the President of the United States confidently expects that at the earliest possible moment after General Crowder's arrival he will be received in order to discuss the situation fully and to consider what measures may be necessary to alleviate the present intolerable situation.⁶

You may state to President Menocal in conclusion that this Government earnestly desires to avoid the necessity of taking any measures which could be construed as intervention or as supervision of Cuba's domestic affairs; confidence is felt that such measures can be avoided if President Menocal adopts a receptive attitude in regard to General Crowder's advice and just recommendations which the President has instructed him to convey to the President of Cuba.

You may also inform President Menocal that the above determination was reached by President Wilson after President Menocal's views as expressed to you were conveyed to him.

DAVIS

837.00/1949: Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, January 4, 1921—6 p.m.

5. Department's January 4, 1 p.m., and your January 3, 5 p.m. In your conversation with President Menocal and with Dr. Desvernine, regarding the visit of General Crowder, in the event that continued emphasis is laid by them upon the fact that General Crowder started on his journey without prior announcement to the Cuban

⁶This paragraph and the two paragraphs which follow have been paraphrased.

Government, you may remind them of the repeated occasions upon which Dr. Desvernine has come to the United States for the purpose of consulting the Department when no announcement of his mission was made.

Dr. Céspedes⁷ has delivered to the Department a protest⁸ similar to that addressed to you by President Menocal and by the Minister of Foreign Affairs. He has been advised of the contents of the Department's January 4, 1 p.m. and has further been told that the decision reached is the result of the President's determination, after learning President Menocal's views stated to you.

DAVIS

837.00/1951 : Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

HABANA, January 5, 1921—4 p.m.

[Received January 6—7:15 p.m.]

5. My telegram of January 3, 5 p.m., January 3, 7 p.m., and January 4, noon. I saw the President just after he had received Céspedes' cable saying that General Crowder was not coming to investigate the acts of the President of Cuba; hence his visit could not be interpreted as indicating a lack of confidence in President Menocal. This cable and other circumstances caused him to modify his attitude and he said that he would give a statement to the press if I would do the same in the hope that our statements would tend to calm the public now somewhat agitated as a result of newspaper report. Doctor Desvernine was then called in [to give his?] opinion; I believe there is now no doubt but that President Menocal will receive General Crowder.

LONG

837.00/1952 : Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

HABANA, January 6, 1921—6 p.m.

[Received January 7—5 p.m.]

6. Called at Palace this afternoon. President Menocal expressed great satisfaction with my mission and his desire that I cooperate in the concededly difficult task of bringing the contested election cases to a prompt and fair settlement.

⁷ Dr. Carlos Manuel de Céspedes, Cuban Minister at Washington.

⁸ Under date of Jan. 4; not printed.

My first effort will be to give definition to pending appeals in the courts, then will follow efforts to consolidate cases and abridge procedure. Hope to report substantial progress in the near future.

Crowder
LONG

837.00/1953 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Acting Secretary of State

HABANA, January 9, 1921—3 p.m.

[Received January 10—4:30 a.m.]

1. I have held extensive conference with both Zayas⁹ and Gómez¹⁰ and with adherents of each. I understand in sufficient detail the status of the contested election cases before the court. I have a plan for expediting court action which I will formulate tonight and submit to President Menocal tomorrow morning. In brief outline it means rules of procedure to be promulgated by the Central Electoral Board governing courts in their hearings of these cases. I have given preliminary consideration to congested dock situation and to financial matters.

CROWDER

837.00/1969 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Acting Secretary of State

HABANA, January 21, 1921—2 p.m.

[Received 11:10 p.m.]

8. Reports thus far received from courts indicate necessity of special elections on a scale which will place the choice of President in doubt. In conference held this morning President Menocal expressed same view.

CROWDER

837.00/1972 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, January 27, 1921—8 a.m.

[Received 6:05 p.m.]

At conference yesterday referred to in my urgent 14, January 26, 6 p.m.,¹¹ I made very explicit statement that if, through failure of courts to act promptly on contested election cases, the *ad interim*

⁹ Dr. Alfredo Zayas, Vice President of the Republic of Cuba; Liga Coalition candidate for President.

¹⁰ Gen. José Miguel Gómez, ex-President of the Republic of Cuba; Liberal candidate for President.

¹¹ Not printed.

administration of municipalities should continue, followed by *ad interim* administration of provinces commencing on February 24th, and *ad interim* administration of the nation on and after May 21st, with total paralysis of legislative power on first Monday in April 1921,¹² a similar statement would be presented under Platt Amendment of change of Ministers to maintain a Government adequate for protection of life and property and individual liberty making it very difficult if not impossible to avoid actual intervention. Statement was received without the slightest offense. I think effect will be greatly to stimulate action by courts and also action by Congress on amendments to the electoral code necessary to expedite partial elections which in all probability must be held.

CROWDER

837.00/2002 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 16, 1921—8 p.m.

[Received February 17—2:17 a.m.]

30. Yesterday evening, late, Secretary of State Desvernine came on board the *Minneapolis* for conference. He informed me that two gentlemen, assuming to represent the Liberal Party and General Gómez, had proposed to President Menocal that both Gómez and Zayas voluntarily retire immediately from the race, leaving their respective presidential electors to be voted for in the forthcoming special elections entirely unpledged; that the electoral colleges would meet in due course and vote for some compromise candidate whom President Menocal would designate. This move by the Liberal Party undoubtedly prompted by advance information that the Supreme Court, in an opinion prepared but not yet published, has sustained decrees of nullity in but 11 colleges in Camaguey. If true, it would be reasonably certain that the special elections would not greatly reduce Zayas majority in that Province.

I replied that my offhand first impressions were that while the plan suggested would not be found lacking in constitution[al] and statutory validity, it was novel and unprecedented; that it would probably be received with the suspicion that some ulterior and concealed motive was involved and that the retirement of Zayas was not voluntary; that whatever of immediate advantage to Cuba might result from such a plan would probably be largely offset by the distrust it would create among the Cuban electors and by the un-stabilizing effect it would have on future elections in Cuba for President and Vice President; that this expression of first im-

¹² Remainder of telegram garbled.

pressions must not be construed as [representing?] the views which might be expressed by my Government if the plan was communicated to it.

Held another conference this afternoon with President Menocal and Secretary Desvernine. President stated that the executive committee of the Liberal Party had been in session all day; that he understood their plan was to appoint a committee of six to call on General Gómez, himself, and myself to present the plan above referred to; that he anticipated Zayas would not become a party to such an agreement in which event he believed that General Gómez and the [rest?] of the Liberal Party would withdraw from the special elections, assigning as a reason therefor a patriotic duty to save the country from the strife and agitation of the new elections.

I informed President Menocal that I should answer the committee that General Gómez could not consistently withdraw because of lack of guarantees for the special elections for the very excellent reason that many of his demands for guarantees had already been met and none of them had thus far been denied and that I should strenuously object to his assigning the lack of guarantees as a reason for withdrawal.

If General Gómez withdraws and Zayas remains the situation will be simple for in that event the partial elections would proceed without excitement and Zayas will be duly proclaimed. If both candidates withdraw either voluntarily or under coercion the situation will become complicated, particularly in the designation of a compromise candidate to be voted for by the Presidential electors. In this latter case you may wish to give me instructions, pending receipt of which will endeavor to delay final action.

CROWDER

837.00/2002 : Telegram

The Secretary of State to the Representative on Special Mission in Cuba (Crowder)

WASHINGTON, *February 21, 1921—7 p.m.*

55. Your Number 30, February 16, 8 p.m. The plan reported by you which contemplates a mutual agreement between the candidates for the Presidency at the recent election to voluntarily withdraw as candidates and leave their respective electors unpledged, is not one in which this Government should participate, or as to which it desires to express an opinion. This is not to be construed as an expression of criticism of the plan outlined provided its legality is clearly established, and it represents the unforced desires of the Cuban people. The United States is only concerned that elections in Cuba shall be

honestly conducted and decided in accordance with the election laws which the Cuban people have duly enacted. Thus only will the people of Cuba gain a respect for their own institutions and confidence in the processes of republican government.

The people of Cuba should not be permitted to feel that we claim any voice in their selection of a president or other public official, or that this Government expects them in any way to be influenced by any preferences on our part as to candidates. We shall endeavor not even to feel a preference and scrupulously to refrain from expressing one.

COLBY

837.00/2006 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 22, 1921—6 p.m.

[Received February 23—2:04 a.m.]

31. Referring to my number 30, February 16th, 8 p. m. and your number 55, February 21st, 7 p.m. Committee appointed by Liberal Party called on both President and myself but did not discuss with either of us the question of the withdrawal of candidates for President. Committee represented itself to be one of conciliation and authorized to discuss only methods of bringing about greater harmony between political parties with a view to fair partial elections. They asked for the appointment of a like committee by the League¹³ and joint sessions of the two committees. President Menocal at once took the necessary steps to call together the executive committee of the League which is meeting to-day to appoint a committee of that party. I am confidently advised that the League will insist that Zayas be a member of its committee and that both committees shall be authorized to consider the expediency of withdrawing the electoral appeals now pending in the Supreme Court. Effect would be to accept as final findings of the *audiencias* as to cases not already decided by the Supreme Court and thus facilitate an early date for the elections.

Held a conference to-day with President Menocal and Chief Justice Supreme Court with a view of expediting action of that Court which is unaccountably slow. I urged upon them again the very great importance of avoiding a total paralysis of the legislative power by failure to announce results of elections before first Monday in April. Delay of fourteen days by the Supreme Court in

¹³ Liga Nacional.

announcing decision of contested election cases from Camaguey wholly unjustifiable. Am urging Supreme Court to greatest possible expedition in deciding cases, consistent with thoroughness.

CROWDER

837.00/2002 supp. : Telegram

The Secretary of State to the Representative on Special Mission in Cuba (Crowder)

WASHINGTON, February 22, 1921—7 p.m.

56. Referring to our Number 55, February 21, 7 p.m. It occurs to me that it might be given publication in Cuba with good results. I defer, however, to your judgment of the matter and particularly your opinion as to whether it would have beneficial effect in view of local conditions which you best understand.

COLBY

837.00/2011 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 26, 1921—11 a.m.

[Received February 27—7:03 a.m.]

32. For the consideration of the Secretary of State: Reference to your number 56, February 22nd, 7 p.m., and my number 31, February 22nd, 6 p. m. There has been a [*no?*] further reference to withdrawal of candidate[s] and that issue is, for the present at least, dead.

First meeting of conciliation committees came to naught because of the attempt of the Conservative committee to exact, as a condition precedent to opening up negotiations, that the Liberal Party renounce "all direct or indirect, public or private, effort near the American Government with regard to the electoral problem of Cuba." The Liberal committee declined to accept this condition and reported the facts to me with the statement that the attempt at conciliation had for this reason alone definitely failed. I sought immediate conference with the President and impressed upon him in the most forceful language I could employ the inadvisability and inopportuneness of raising such an issue at this time; that if restrictions were to be laid upon Cuban citizens respecting the procedure to be followed in presenting for the consideration of the Government of the United States matters affecting the treaty obligations of both countries the Government of the United States would I felt sure expect to be con-

sulted; that events had shown conclusively that the Government of Cuba was not exposed to undue intervention of [*in*] its electoral administration because of the freedom which citizens of Cuba had thus far enjoyed in presenting facts connected with that administration to public men of the United States; reading to him in this connection the last two sentences of the first paragraph of Department's number 55, 7 p.m.

President Menocal regards the attempt of the Conservative committee to enforce this condition precedent a mistake and requested from me a statement in writing setting forth my objections thereto to aid him in his effort to influence the Conservative committee to abandon this attitude. I immediately dictated such a letter "copy by mail"^{13a} which he will lay before the Conservative committee today. He hopes that the two conciliation committees will resume at an early date their important task of promoting greater cordiality between parties and of agreeing upon safeguards to surround partial elections.

Arguments closed in the Supreme Court on the last of the contested election cases, those from Oriente yesterday evening. Date of partial elections, now tentatively fixed for March 10th, will have to be postponed unless the Supreme Court decides the pending appeals very promptly. The Court is concentrating upon contested election cases from Matanzas which will be the next to be decided. If the Supreme Court reduces materially the number of colleges of Matanzas which has been nullified by its *audiencia* as it did in Camaguey, the prospects of the Liberals winning the election will be almost hopeless. In that event certain prominent Liberals, more patriotic than partisan, have expressed to me a view which may gain some publicity in the United States and is therefore referred to here that an effort will probably be made, within the Supreme Court itself, to delay further decisions and thereby prevent elections being held and results promulgated prior to May 20th; in other words if the Liberal Party becomes convinced that Zayas will probably be successful, the Liberal Party working through the Supreme Court in this way will endeavor to force American intervention. I am not ready to share this view but should it be correct then it may well be that the compromise candidate scheme described in 1st paragraph of my number 30, February 16th, 8 p.m. about which Welles¹⁴ and I conferred will be again brought forward as only Cuban solution.

CROWDER

^{13a} Not printed.

¹⁴ Sumner Welles, Acting Chief of the Division of Latin American Affairs, Department of State, who had arrived in Cuba on Feb. 23.

837.00/2012 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 28, 1921—5 p.m.

[Received March 1—12:53 a.m.]

34. Reference to my number 32, [February 26,] 11 a. m. President Menocal called Conservative conciliation committee together Saturday morning to consider my letter. The committee consented to withdraw objectionable language and to meet the President and Liberal conciliation committee in joint session Saturday evening. Result was agreement as to all fundamentals, including use of armed forces and police, expressed in resolutions unanimously adopted and satisfactory to me. President Menocal confident that executive committee of both parties will ratify. If so we shall have joint bi-partisan committees of four working in the interests of public order and fair elections in each province and in each municipality and similar committees of two in each college where partial elections are to be held; also an inspector in each such college to enter upon his duties five days before date election. Electoral situation in consequence much improved. Hope to be able to report tomorrow substantial progress of Supreme Court in deciding contested election cases, and that March 10th is still a possible date for partial elections. Before date of election I shall give out public statement quoting salient parts of Department's number 55, February 21, 7 p.m.

CROWDER

837.00/2016a : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, March 5, 1921—4 p.m.

63. For General Crowder:

Until instructed to the contrary, President Harding desires that you continue as his personal representative the duties which you have been performing in Cuba up to the present.

HUGHES

837.00/2026 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, March 12, 1921—1 p.m.

[Received March 13—2:05 a.m.]

37. Returned this morning from inspection of three pivotal Provinces, Matanzas, Santa Clara and Camaguey, establishing American observation in the latter. Found conditions generally satis-

factory. Army everywhere neutral and local party leaders convinced that it would be useless to repeat practices in the forthcoming elections which the Supreme Court has so unsparingly condemned in the elections of November 1st. Large number of very competent inspectors, many of them magistrates and secretaries of courts, already on the ground and at work. Am satisfied that there will be no organized intimidation or violence and that no political party need refrain from participating in elections next Tuesday¹⁵ on such grounds.

At Colon visited scene of disturbance which occurred shortly before my arrival and left there Mr. Shackleford, experienced American observer in November 1st elections, to investigate. He has already rendered preliminary report stating disturbance had its origin without the Liberal Party but was carefully staged so as to appear to have originated with Government, and was intended, he thinks, to demonstrate lack of adequate safeguard for the forthcoming partial elections, justifying withdrawal of Liberal Party from any participation therein. While at Cruces I investigated disturbances there of last Saturday and Monday and sent Mr. Shackleford to complete investigation. My preliminary inquiry indicates same origin and same motive as at Colon. Contact with the Liberal leaders during my inspection trip shows conclusively that nothing would have satisfied Liberal Party except exclusive American supervision and control of both electoral machinery and armed forces as conditions precedent to participating in the partial elections.

Yesterday General Gómez published a letter addressed to the executive committee of the Liberal Party under date of March 10th containing a lengthy recital of party grievances since last August and affirming that his reliance on the assurances of the Government of Cuba and representations of the Government of the United States with respect to safeguards against external violence and coercing has been in vain, and that he can no longer hold himself responsible for the bloody consequences to Liberal voters which he states will ensue from any attempt of the Liberal Party to go to the polls on March 15, under the conditions which he declares to exist, citing in substantiation thereof recent disturbances at Cruces and Colon above referred to, accompanied by a mass of generalities.

As a result of this pronouncement by General Gómez, the executive committee of the Liberal Party unanimously adopted on the night of March 10th resolutions published at the same time as aforesaid letter declaring that Liberal Party will withdraw from public affairs until there exist normal conditions in the Republic and full guarantees. That Liberals will not go to the polls at the forthcoming elections

¹⁵ March 15.

was also then and there resolved by that body. Press statement not yet verified to the effect that Liberal and Democratic members of the Central Electoral Board have withdrawn from that body, latter under condition[s] set forth in preceding paragraph. Zayas should be easily successful next Tuesday. . . .

CROWDER

837.00/2027 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, March 13, 1921—8 p.m.

[Received March 14—5:26 a.m.]

38. Menocal, Gómez, Zayas and committee of Rotary Club, Ramon Menia president, held a conference at Palace today. Committee urged General Gómez to remain in the race for President and unite with Menocal and Zayas in joint public statement as follows: "On the eve of holding the partial elections, in these moments so solemn for the Republic, we pledge our word of honor to cooperate by all means within our power in order that the right to vote shall be exercised with complete liberty, purity and guarantee." President Menocal and Zayas consented but Gómez refused being unwilling to reconsider his withdrawal and urging further postponement of elections.

At the same time representatives of Gómez called upon me urging: 1st, holding of new general elections in all six provinces in November next, in substitution for those already held and to be held; 2d, election by Cuban Congress of Provisional President to succeed Menocal May 20 and to serve until result of November elections had been proclaimed, Provisional President to pledge himself not to be a presidential candidate. I rejected this proposition giving as grounds therefor that it afforded no reasonable assurance of different or better conditions in November than we are confronting today, that it would be a bad precedent, would seriously threaten stable government contemplated by treaty obligations and affect adversely the credit of Cuba in this period of financial recovery.

Partisan press now printing exaggerated accounts of isolated disturbances of public order seeking in this way to prove that no adequate electoral guarantees exist. In the improbable contingency that they should become serious, unreserved support of the duly constituted Cuban authorities will in my judgment be sufficient to suppress them.

CROWDER

837.00/2036 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, March 16, 1921—7 a.m.

[Received 7:30 p.m.]

43. Department's policy to leave undisturbed results of November elections where the issue of their validity was not raised before the courts, or where their validity was declared by the courts, and to surround with adequate safeguards partial elections to be held in those places where the courts have decreed invalidity—and in this way compel the Cuban people to respect results obtained under the law which they themselves had duly enacted, as construed by their own courts—has I think been faithfully carried out. I am of the opinion therefore that the results obtained yesterday, notwithstanding withdrawal of Liberals, may be ratified.

CROWDER

837.00/2053 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, March 27, 1921—11 a.m.

[Received March 28—1:57 a.m.]

51. According to official report received by Central Electoral Board and Government, elections in Oriente and in the single college of Cienfuegos passed off without disturbance of the public order and press this morning confirms this statement except in one case involving four *barrios* of a single municipality. These reports show that Liberals have participated in many places but whether they cast normal vote is not yet indicated. Liberals win mayoralty of Cienfuegos by a majority of 178.

Period closed for submitting proof in appeals taken in Santa Clara against partial elections of March 15th without the proffer of any testimony of Liberals in support of their allegation[s]. Provincial *audiencia* declared the cases closed and forwarded record to Civil Chamber of Supreme Court, where it should be received this morning. If there is similar failure in other provinces to offer proof the action of the Supreme Court ought to be very prompt and certificates of election to be issued to provincial electoral board should be in hands of congressmen-elect in time for them to participate in

the opening of Congress April 4th. Next step will be fixing by Central Electoral Board of a date, which must be the same for all provinces, for meeting of presidential electors in the capital of each province to cast their vote for President and Vice President. Have definite understanding with the President and Central Electoral Board that this date will not be fixed without further conference with me. I have taken this action in the view that it would be unwise for presidential electors to meet now and select a President whose ability to command the necessary two-thirds quorum is not yet demonstrated. A short delay cannot prove embarrassing and the effect will be, in the face of demonstrated incapacity of Zayas to command such quorum, to preserve for time being opportunity for presidential electors to vote for third person who can command it.

CROWDER

837.00/2055 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, March 28, 1921—4 p.m.

[Received 8:11 p.m.]

52. The appeal from Pinar del Rio Province brought by the Liberal Coalition Party against partial elections of March 15th, alleging lack of guarantees, was rejected by Civil Chamber, Supreme Court in a decision rendered March 27th, on the ground that appellant did not appear before the Court to sustain the appeal. Similar decision may be expected on appeal from Santa Clara Province where facts are precisely the same.

Will report final decision of the Supreme Court as fast as rendered and when finished it can be truthfully said that both coalition parties have had their day in Court upon every question of law and fact involved in the elections of November 1st and March 15th including the existence of adequate guarantees for both elections. Strongly recommend that policy hitherto pursued of seeking a decision in the Supreme Court of Cuba and respecting that decision, whichever party it may favor, as final and conclusive be consistently and strictly adhered to as best possible solution of electoral situation here. I am reliably informed that and believe the fact to be that the individual affiliations of a majority of the five justices of the Civil Chamber of the Supreme Court who participated in the trial of contested-elections cases are with the Liberal Party. Two of them including the presiding justice are known to be affiliated with that party.

CROWDER

837.00/2061 : Telegram

*The Representative on Special Mission in Cuba (Crowder) to the
Secretary of State*

HABANA, April 1, 1921—6 p.m.

[Received 10:47 p.m.]

55. Secretary of State Desvernine has just placed in my hands the following cablegram from General Gómez to his son sent in code but decoded by the Director General of Posts of Cuba :

“ Endeavor to have congressmen not to complete quorum in Congress. Express to them that the success of my action in Washington depends on that attitude. The nonlegal proclamation of Zayas will cause [*prevent?*] nonofficial recognition by the Government of the United States, and accordingly I believe that our triumph is certain. Washington will not recognize Zayas officially without legal requirements.

The President has shown me telegraphic despatch circulated throughout the Island in which General Gómez advises General Pinguerra [*Pino Guerra?*] that new elections will be held with American supervision.

President showed me despatch from Céspedes asking instructions as to whether he should request an audience with President Harding for General Gómez. President Menocal, knowing the real purpose of his mission, was disposed to instruct Céspedes not to ask for the audience but yielded to my advice and ordered telegram sent to Céspedes saying that he would interpose no objection to the reception of General Gómez in his capacity as ex-President of the Republic although he knew that his purpose was to use the incident to strengthen the political boycott which he has proclaimed against the Government here and also his demand for a new general election.

I recommend that General Gómez be received by the Department and questioned along the lines of my March 28, 4 p.m., paragraph 2; that he be asked if he was satisfied with the decisions of the courts of Cuba as to the November 1st elections on the much-vexed question of lack of guarantees against intimidation and violence and if so why he is unwilling to trust the courts of Cuba to decide the same question as to the partial elections held March 15th. Am firmly convinced that all or nearly all apprehensions entertained by members of Liberal Party as to violence threatened in the March 15th elections were the result of Liberal propaganda and the acts of agents of that party; see my 37, March 12, 1 p.m. and March 13, 4 [8] p.m. I am satisfied that if General Gómez had cooperated with me instead of obstructing with this propaganda his entire strength would have gone to the polls and the elections of March 15th

would have proceeded without organized disturbance and free from disorder except as it resulted from acts of irresponsible individuals of both parties. The truth is that General Gómez was dissatisfied with the chance that the Supreme Court gave him to win and would have been satisfied only with the proposition made to me by his representatives as set forth in my 38, March 13, 8 p.m., paragraph 2.

CROWDER

837.00/2085b : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, April 16, 1921—11 a.m.

97. Department's March 28, 5 p.m.¹⁷

In view of General Crowder's recommendation that the present is an appropriate moment for issuing the statement referred to there is transmitted to you herewith the statement which the Department desires the Legation to issue in the same manner in which the statement of August 30, last,¹⁸ was published. Before publishing this statement, however, the Department desires you to consult with General Crowder and in the event that you or General Crowder have any modifications or amendments to suggest to cable your views to the Department. If neither you nor General Crowder have such changes to suggest, you are authorized to issue at once the statement quoted below:¹⁹

"On August 30, 1920, the Government of the United States had occasion to make known to the Cuban people, through the American Legation in Havana, its hope that the Presidential elections in Cuba would be conducted in such a way as to secure the free expression of the popular will of the Cuban people, and made plain its belief that since the new electoral law supplied the means of providing evidence to serve as the basis for reaching a decision as to the result of the elections, the responsibility for the conduct of these elections rested,

¹⁷ Not printed.

¹⁸ See telegram no. 197, Aug. 30, 1920, from the Chargé in Cuba, *Foreign Relations*, 1920, vol. II, p. 19.

¹⁹ The following changes were in the text of the statement as it was submitted for publication by the Minister in Cuba (file no. 837.00/2089):

- (1) Paragraph one, "free expression" changed to "full expression";
- (2) Paragraph two, second sentence, "likewise" omitted;
- (3) Paragraph two, second sentence, "have had the fullest" changed to "had full";
- (4) Paragraph four, third sentence, "At the same time" changed to "About the same time";
- (5) Paragraph five, "Constitutional government in Cuba, and would seriously threaten" omitted;
- (6) Paragraph six, first sentence, "assumed" changed to "assumes";
- (7) Paragraph six, second sentence, "all" omitted before "voters";
- (8) Paragraph seven, second sentence, "has shown" changed to "signifies."

and should rightly rest, with the Cuban Government and with the Cuban people.

Voters of both political parties went to the polls in the elections of November 1. After the elections were held, both parties likewise were apparently content to test the validity of those elections in the Courts and to abide by the results, and both parties have had the fullest opportunity to have considered by the Courts every controverted question raised in their protests and appeals.

During the long period in which the contested election cases were being considered by the Courts the Government of the United States was apprized of no complaints charging unfairness, incompetency, partizanship or undue influence against either the six provincial *audiencias* which heard the cases in the first instance nor against the Supreme Court which decided them on appeal, nor is it aware that individual judges or justices have been so charged.

After the fullest deliberation the Courts decreed annulment of the previous elections in 189 electoral colleges, and partial elections were held on March 15, and March 26, in these colleges, as well as in a few additional colleges where no elections had been held on November 1. The Liberal Coalition Party, however, withdrew from these partial elections alleging as the grounds of their withdrawal conditions of intimidation and violence for which the public authorities were responsible. At the same time, the Liberal Party urged that there be held in all six provinces of Cuba new general elections on November 1, 1921, in substitution for those which had been held and which would be held, and the election by the Cuban Congress of a provisional President to succeed President Menocal on May 20, next, and to serve until the result of the new general elections had been proclaimed.

The Government of the United States was unwilling to consider this proposition, inasmuch as this departure from the procedure provided by the Cuban Constitution and the Electoral Code would create a precedent which would menace the orderly development of Constitutional government in Cuba, and would seriously threaten the stable government in Cuba contemplated in the Treaty obligations of the Government of the United States to the Republic of Cuba.

The Government of the United States assumed the position that if the Liberal Party was satisfied with the decision of the Courts of Cuba as to the elections held on November 1, last, upon the question of the lack of guarantees against intimidation and violence, there could be no reason why the Liberal Party should be unwilling to trust the Courts of Cuba to decide upon the same question as to the partial elections to be held on March 15, and March 26. The Government of the United States, after the most painstaking investigation, reached the conclusion that there was no reason why the Liberal Party should be apprehensive that violence was threatened in the partial elections and believed that all necessary safeguards and guarantees had been provided so that all voters could freely go to the polls. The Government of the United States is confident that if the Liberal Party had gone to the polls in the partial elections on March 15 and March 26, those elections would have proceeded without organized disturbance and free from disorder, except that which might

have resulted from the acts of irresponsible individuals of both parties.

The Government of the United States considers that the safeguards and recourses provided by the Electoral Code of Cuba have been placed at the disposition of the Cuban people without partiality or discrimination. The result of the elections has shown that the Presidential candidate of the Liga Coalition Party has been elected President. In the judgment of the Government of the United States the Cuban people should accept this decision as final and no attempt should be made by the members of the minority in the Cuban Congress to impede the orderly procedure provided by the Constitution and the laws by preventing the Congress from proclaiming the successful candidate President of Cuba."

HUGHES

837.00/2085a : Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, April 16, 1921—noon.

98. For General Crowder :

Yesterday I received General Gómez, who was accompanied by his interpreter. General Gómez reviewed the political history of Cuba from the Revolution of 1917, referring particularly to the fraud, violence, and intimidation which took place in the presidential elections of last November, and to the confirmation given by the Supreme Court to the complaints of the Liberal Party that these illegal acts had taken place by annulling the elections held in 189 colleges. He went on to relate, somewhat inaccurately, the events that have taken place since your arrival in Cuba. He insisted that the Liberals had abstained from voting in the elections of March 15 and 26 because the leaders of the party believed that proper guarantees were not forthcoming and were not willing to hold themselves responsible for the deeds of violence which they were sure would be committed. He emphasized most the point that you had been unwilling to recommend to the Cuban Government that the partial elections of March 15 should be postponed, basing your refusal on the ground that such a postponement of the partial elections would render impossible the assembly of Congress on April 4, the day set by the Constitution. He then called my attention to the fact that only a very few voters went to the polls in the partial elections as compared with those who voted in the same districts last November, and claimed that all those who refrained from voting in the last elections were Liberals, and that the Liberal Party would have been victorious by an overwhelming majority in the partial elections if it had gone to the polls as a whole. Therefore, the result of the elections, he stated, did not

represent the will of a majority of the Cuban people, and referring to the assurances given by this Government in a statement issued by the American Legation August 30, 1920,²⁰ he said that in order that justice might be done, the Liberal Party appealed to this Government.

I replied that this Government could receive only with the utmost consideration an appeal made in this spirit, particularly by so distinguished a Cuban as General Gómez, and that the Government of the United States would of course listen attentively to any such petition because of the special interest this Government feels in all that pertains to Cuba. I told him, however, that it is in the orderly development of constitutional government in Cuba that the primary interest of this Government lies; that this Government is unable to comprehend why the Liberal Party had been unwilling to trust the courts in regard to the partial elections held in March when it had been willing to take its appeals to them from the November elections; that the Government of the United States was satisfied that under your supervision proper guarantees had been provided for the holding of these elections; and that there could be no doubt from the official returns received that Dr. Zayas had been legally elected and should be proclaimed President of Cuba in the manner provided for in the Electoral Code and in the Constitution.

I said in conclusion that this Government would view with regret and apprehension any attempt on the part of the Liberal party to prevent the proclamation of Dr. Zayas, calling General Gómez's attention to the fact that the Liberal minority in the Cuban Congress was now attempting to prevent the formation of the quorum necessary to proclaim the successful candidate President of Cuba. Before he left General Gómez gave me to understand that the Liberal Party would accept this determination as final, inasmuch as they were forced to submit to whatever decision this Government might reach.

HUGHES

837.00/2086 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, April 18, 1921—10 a.m.

[Received 7:13 p.m.]

69. Statement forwarded in your telegram 97, April 16, 11 a.m., was given to press April 17, 2 p.m., three minor verbal changes being made therein. After Department's telegram 98 had been

²⁰ See telegram no. 167, Aug. 25, 1920, to the Chargé in Cuba, *Foreign Relations*, 1920, vol. II, p. 17.

carefully considered by General Crowder and me statement was published in *La Noche* of last night and in today's morning papers.

The press also carried statement by General Gómez to his party in which he recommends acceptance of defeat rather than endanger the safety of the Republic by another American intervention and announces his intention to retire to private life. Clippings of statements will follow in next pouch.

LONG

837.00/2087 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, April 21, 1921—1 p.m.

20. For General Crowder. Your April 18, 6 p.m.²¹

The Department would be glad to have you commence immediately to confer with Doctor Zayas in order that he may be impressed with the earnest desire of this Government . . . that there may be no repetition in the future of that failure in the elections which has provoked the serious crisis in the national life of the Republic which has existed during the last five months. Doctor Zayas should be advised at the outset that the Government of the United States believes that there is implicit in the Treaty of 1903²² the obligation on the part of the Republic of Cuba to maintain an honest and efficient government in return for the obligations assumed by the United States. Doctor Zayas, this Government believes, will readily agree that his administration will not be able to maintain the high standards of efficiency and integrity which this Government realizes it is his earnest desire to have it maintain, unless his appointees to cabinet positions are men of the highest ability and unquestioned honesty. The Department considers that it would be well for you to emphasize, at the first opportunity, the hopes of this Government as above indicated.

Please cable the Department any information which you may have tending to show any commitments which Doctor Zayas may have made, and any advice which you may receive from him as to the appointments which he may be inclined to make in the future cabinet.

HUGHES

²¹ Not printed.

²² *Foreign Relations*, 1904, pp. 243 ff.

837.00/2092 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, April 27, 1921—10 p.m.

[Received 11:59 p.m.]

65. Complying with last paragraph of your April 21, 1 p.m., I report as follows. Zayas is definitely committed to appoint his brother Francisco Zayas, Secretary of Public Instruction and E. Regüíferos of Santiago, Secretary [of] Justice, both competent and satisfactory.

He is considering Sebastian Gelabert, member of Liquidation Commission, Porfirio Franca, formerly National City Bank, and Margarit, prominent merchant of Havana, for Secretary of Treasury. Best judgment here is that Gelabert should be preferred. For Secretary of Sanitation he favors Guiteras, present Director of Sanitation, who has served as such for more than twenty years and who was before that professor of University of Pennsylvania, appointing in his place as said director Aristides Agramonte, formerly assistant to General Gorgas and member of Cuban National Sanitary Board. For Department of Public Works, Jose Primelles graduate of Columbia College, Director General of Public Works under President Palma, and at present director of American Steel Company. For State Department, Bustamante, Montoro, and Rivero. All these names in substitution for objectionable names he had originally listed.

For Department of Gobernación, Pablo Mendieta, veteran, War of Independence, formerly Consul General Barcelona and retired Major General of the Army—satisfactory. For Department of Agriculture, Jose Camacho Padro, formerly Mayor of Santiago—objectionable. For War Department, Francisco Martínez Lufriú, of whom I have as yet meagre information.

Have discussed with Zayas several specific reforms and hope to be able to cable tomorrow those which he will stand for. Attempt will be made Friday to proclaim Zayas and will probably be successful.

CROWDER

837.00/2093 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, April 28, 1921—8 p.m.

[Received 10:32 p.m.]

66. Concluded fifth conference with Zayas today. His commitments thus far may be summarized as follows:

He accepts the construction of Treaty of 1904 [1903], announced in your April 21, 1 p.m.

He will recall Menocal's budget for the year (forwarded with my letter of February 6th²³) and will submit to Congress in lieu thereof a budget between 50 and 60 millions; failing to obtain which, he will make every effort to restrict public expenditures for ensuing fiscal year within limits of last-enacted budget, namely 1918-19, about 63 millions.

He will ask Congress to abrogate provisions of law of July 12th, 1921 [1920] (see my letter of February 6th), providing additional compensation to national, provincial, and municipal employees, leaving in force only the provisions of said act for increased rentals and expenses of like character.

He will interpret Cuban Constitution in the sense that the President independently of Congress has no authority to appropriate by decree public funds except in gravest emergency.

He will immediately suppress all *botellas* and within a period of five months make sweeping reforms in national lottery, particularly in the *colecturía* system.

He will undertake promptly and will complete within a period of one month a sanitary survey of the Island and of its municipalities, giving special attention to smallpox in Camaguey and Oriente and to water supply of cities; also within a like period of one month will prepare a financial statement of the National Treasury and within two months a financial statement of the municipal treasury of Havana; all such reports and statements to be made available to the United States Government.

All these commitments are made definite by his signed O.K. on the rough draft on this telegram and identical with it except as to verbal and unimportant changes.

Zayas asked me to notify Department of his desire to initiate promptly conferences to obtain amendments in the Treaty of Commerce between the two countries²⁴ with a view to increasing preferential tariff between the United States and Cuba. Will discuss with

²³ Not printed; see telegram no. 39, Feb. 11, to the Minister in Cuba, p. 697.

²⁴ *Foreign Relations*, 1903, pp. 375 ff.

him next Monday question of constitutional revision and certain desirable amendments in electoral code.

I advise that for the present Zayas' commitments be respected by the Department as confidential.

It will be of the greatest aid if Department will cable before Tuesday its comments upon proposed Cabinet appointments. See my urgent 65, of yesterday.

CROWDER

837.00/2108

The Cuban Minister (Céspedes) to the Secretary of State

WASHINGTON, April 29, 1921.

MY DEAR MR. SECRETARY: I respectfully call Your Excellency's attention to the statement of which I enclose a copy²⁵ given out to the Cuban press by General José Miguel Gómez in which he refers to his recent conversation with Your Excellency in terms that have made me doubt their absolute correctness very seriously, for they are evidently at variance, in many instances, with the repeatedly announced policy of this Government in Cuban affairs.

In view of the wide and misleading commentaries to which the statement has given rise and while not admitting at all that they could have any intrinsic value whatever, it may appear that a timely rectification might be convenient in this case.

Should Your Excellency coincide in this appreciation, I would highly esteem an expression from you on the statement in question that I might communicate to my Government and, subsequently, make public in Cuba.

With the assurance [etc.]

CARLOS MANUEL DE CÉSPEDES

837.00/2109

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

[Extract]

HABANA, May 2, 1921.

[Received May 7.]

DEAR MR. SECRETARY:

I think President Menocal's desire to visit Washington is due largely to the fact that he would like to discuss with the Department the financial situation in Cuba and the remedy therefor, subjects to

²⁵ Not printed.

which he has given very intelligent study; and also to discuss with the Department the Sugar Sales Commission decree²⁶ which he issued and the execution which that decree has received. I think he would be in position to give the Department important information and much light upon the operations of the Sugar Sales Commission and its personnel.

In the light of what I have stated the Department will have no difficulty in reaching a conclusion as to whether the invitation, which, of course, Menocal wishes to be of the most informal character, shall issue. In order that he may have time to adjust his stay at New York so as to permit a trip to Washington, I would suggest the Department's decision be cabled.

Very respectfully,

E. H. CROWDER

837.00/2108

The Secretary of State to the Cuban Minister (Céspedes)

WASHINGTON, May 3, 1921.

MY DEAR MR. MINISTER: I have received your letter of April 29, transmitting a copy of a statement published in the *Heraldo de Cuba* of Monday, April 18, containing an alleged account of the conversation which I recently had with General José Miguel Gómez in the Department of State. You inquire whether this report of my conversation with General Gómez is correct.

In reply, I am glad to avail myself of this opportunity to advise you that the statements contained in the article above referred to are both inaccurate and misleading. In brief and in substance, my remarks to General Gómez were confined to statements corresponding to those contained in the announcement to the Cuban people communicated by the American Minister in Havana to the press on April 17, last. I should like, in particular, to emphasize the fact that no mention whatever of the possibility of American intervention in Cuba was made during the course of my conversation with General Gomez.

In short, the entire report of my conversation is so incorrect that I am confident its publication could never have been authorized by General Gómez.

With the assurances [etc.]

CHARLES E. HUGHES

²⁶ Not printed; see telegram no. 26, Feb. 11, from the Representative on Special Mission in Cuba, p. 797.

837.00/2109 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, May 12, 1921—4 p.m.

107. For General Crowder.

Your despatch of May 2.

You may advise General Menocal that he would be received in the Department with pleasure if he found it convenient to visit Washington before his departure for Europe.

HUGHES

837.00/2125 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, May 20, 1921—3 p.m.

[Received 7:26 p.m.]

82. Zayas took office this morning without untoward incident.
LONG

837.00/2093 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, June 17, 1921—5 p.m.

121. For General Crowder.

The Department desires you to express to President Zayas the deep satisfaction caused this Government by learning of the program of administration which the President has informed you it is his intention to carry out, as stated in your April 28, 8 p.m. This Government believes that the administration of Dr. Zayas will set a high standard of efficiency and integrity if the measures which Dr. Zayas has declared it is his purpose to enforce are successfully carried out. It is the opinion of this Government that only through the enactment of such a program of drastic economy and honest administration can the Government of Cuba be placed on a sound basis and prosperity be restored to Cuba. The fact that the President construes the Treaty of 1903 in the same sense as does this Government lends every assurance that satisfactory co-operation between the two Governments is possible at this time when the Cuban Government is forced to contend with so many problems of the gravest import.

In view of the fact that both Governments believe such co-operation to be essential, it is likewise highly satisfactory to the Department to learn, through the published letter of Dr. Zayas dated May 12, 1921,²⁷ of the high regard in which your services as the representative of the President of the United States are held by the President of Cuba and that Dr. Zayas will not vacillate in utilizing your services in resolving the difficult problems with which the Government of Cuba is confronted. It is the intention of this Government that you advise the Cuban Government, in particular, as to the solutions which may be found for the present disturbing financial conditions which obtain in the Republic and report to this Government upon all phases of the financial crisis. Since the financial rehabilitation of Cuba, in the opinion of the Department, affects very directly the stability of the Government in Cuba, which, it is the obligation of the United States, under the Treaty of 1903, to maintain, President Zayas will doubtless appreciate the reasons for the special interest which this phase of the situation in Cuba causes this Government. For the same reason, the Constitutional amendments and the legislation thereunder, now under consideration by the Cuban Congress, are a source of peculiar concern to the Government of the United States. In conclusion, express to Dr. Zayas the confidence of the Department that his patriotic and unselfish efforts to promote the welfare of the Cuban people and to enforce a system of honesty and economy in the Cuban Government will meet with success and assure him that those efforts are being closely followed by this Government.

HUGHES

837.00/2137

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, June 20, 1921.

[Received June 29.]

DEAR MR. SECRETARY: I have the honor to transmit herewith copy of the paraphrase of your No. 121 in the form in which I submitted it to President Zayas.²⁸

There are to be noted only such verbal changes as would protect the cipher in which the telegram was translated [*transmitted?*]

Very respectfully,

E. H. CROWDER

²⁷ Enclosed with despatch no. 914, May 13; not printed.

²⁸ No. 121, *supra*; paraphrase not printed.

PROJECT FOR A LOAN

Proposal by President Zayas for an Internal and an External Loan; Insistence by the United States Government upon Limitation of the Cuban Budget; project for a Loan of \$50,000,000 from J. P. Morgan & Company; Stipulation by the United States Government That a Surplus of Cuban Revenues over Expenditures Be Maintained; Disagreement with President Zayas over the Observance of His Commitments; Sanction of the Loan Withheld by the United States Government

837.51/447 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, February 11, 1921—7 p.m.

39. Department understands²⁹ that the President has submitted to Congress the projected budget for the coming year authorizing expenditures of over \$104,000,000, which, together with the gratifications conceded to the employees of the provinces and municipalities and to the Army and national police amounting to \$32,000,000, makes a total of approximately \$136,000,000. The enactment of this budget providing for an increase in expenditures of some \$70,000,000 over the budget enacted in 1918-1919 at this precarious time would, in the opinion of the Department, inevitably cause the financial crisis which the Cuban Government is at present endeavoring to prevent. The Department would be glad to have you bring, at your earliest opportunity, to the attention of the President the very grave anxiety which this action on the part of the Executive is causing the Government of the United States, and authorizes you to take such steps in accordance with General Crowder as may be deemed necessary to prevent the enactment of the proposed budget and thereby enable the Government to operate for the coming year under the budget of 1918-1919.

Please communicate the contents of this telegram to General Crowder in order that he may make such representations in his conversations with the President, or other members of the Government, as he may deem wise.

COLBY

837.51/460

The Minister in Cuba (Long) to the Secretary of State

No. 753

HABANA, February 18, 1921.

[Received February 26.]

SIR: I have the honor to report that I have brought the Department's telegram of February the 11th to the attention of President Menocal, who assures me that no effort will be made to pass the

²⁹ Despatch from General Crowder, Feb. 6; not printed.

new budget requiring about \$104,000,000 to run the Cuban Government, but that it will function for the coming fiscal year under the 1918-1919 budget.

More detailed information regarding the proposed new budget is to be furnished me in the near future.

I have [etc.]

BOAZ W. LONG

837.51/484a : Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, June 1, 1921—5 p.m.

114. For General Crowder :

The Department has been advised by representative of certain New York banking interests that bankers are disposed to make the Cuban Government a loan up to \$50,000,000 if Cuba desires it. If the Zayas administration desires such a loan as the one mentioned cable the Department.

HUGHES

837.51/486 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, June 4, 1921—1 p.m.

[Received 5:28 p.m.]

72. Replying to your June 1, 1 [5] p.m. Zayas appears to be proceeding aggressively to bring about drastic economies hoping in this way to avoid a loan. He might and probably would relax his efforts in this regard if he thought a loan was obtainable. In any event I recommend that the Cuban Government be not approached on this matter until the dependable statement of the national finances which Zayas hopes to have completed by June 10th demonstrates the imperative necessity for a loan.

It may turn out as liquidation advances that a national loan such as proposed in parts IV, V and VI of the Rathbone plan,³⁰ available in hands of superior liquidating commission or other specially constituted body for rediscount or purchase of long-term securities in the hands of both solvent and insolvent banks, may be most advisable, the proceeds of such loan to be administered as a revolving fund, loan to amortize itself as suggested by Rathbone. Will keep Department advised.

CROWDER

³⁰*Foreign Relations*, 1920, vol. II, p. 52.

837.51/494 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, June 20, 1921—9 p.m.

[Received 10:45 p.m.]

78. Received from President Zayas today incomplete and unsatisfactory statement of national finances. Have accumulated considerable data from other sources and have secured services of an American expert accountant to analyze and complete the statement. President Zayas is of the opinion that the necessity for a foreign loan is not yet demonstrated.

CROWDER

837.51/498 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, June 25, 1921—11 a.m.

[Received 9:54 p.m.]

81. Reference my number 78, June 20th, and concluding paragraphs of preliminary financial report June 21st.³¹ American expert accountant, Mr. Field, after extensive conferences with Secretary of the Treasury Gelabert and subordinate Treasury officials, reports in agreement with Gelabert that statement shows deficit in round numbers of \$36,000,000; that such statement is incomplete as to outstanding current obligations which will probably increase deficit by \$10,000,000; that there should be offset against the total deficit of \$46,000,000 the relatively small amount of which the Government may realize in liquidation of its credits in the Banco Nacional and also by selling or applying on current obligations \$5,000,000 of bonds of the interior loan of 1917³² now held in the Cuban Treasury. President Zayas in conference with me yesterday expressed the view that these figures were substantially correct, but that a report by skilled foreign accountants will be necessary to determine the actual deficit; and added that the financial situation was in his judgment very grave.

To meet that situation he suggests tentatively new foreign loan of \$70,000,000 with rate of interest and period of loan so adjusted as to produce an effective sum of \$65,000,000 to be paid in quarterly installments as follows: first installment of \$35,000,000 at once and the remainder in three equal tri-monthly installments of 10,000,000.

³¹ Latter not printed.

³² See *Foreign Relations*, 1918, pp. 284 ff.

Of the first installment \$25,000,000 to be applied in case of necessities on sugar production under crop-lien law now pending before Cuban Congress, at rate of interest slightly in excess of that which the Government will have to pay; and the remaining 40,000,000 to supplement the ordinary revenues in meeting current obligations and extinguishing deficit. Of course Zayas recognizes that a loan in aid of the existing "ordinary revenues" may not be liquidated by them and therefore proposes the creation of new revenues to be determined by Congress but adequate for interest and sinking-fund charges on the proposed new loan thus bringing any application which may be made for such loan under the terms of Article 2 of Platt Amendment.³³

As I have heretofore informed the Department the budget now governing and which will continue to govern during the ensuing fiscal year is the last duly enacted budget, namely that of 1918 and 1919. Zayas further proposes that the Cuban Congress pass a law suppressing certain items of this budget, modifying others and delegating to him authority to reorganize several executive departments on the basis of reduced personnel and greater economy, helping in this way to make receipts for ensuing fiscal year even as [*exceed?*] revised budgetary expenses by \$7,000,000. As at present advised I seriously doubt the ability of any Cuban administration to establish with requisite good feeling the necessary drastic economies and to enact the necessary revision upwards of Cuban tax laws both of which are indispensable measures to the raising of the additional revenues for adequately securing proposed new loan.

My analysis of the Zayas loan proposition, budgetary legislation and financial statement with my recommendation will follow by cable or mail as may be expedient after I have completed further conferences with him and after work of the American accountant is further advanced. The Department may well regard the financial situation here as serious.

CROWDER

837.51/498 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, June 29, 1921—6 p.m.

126. For General Crowder.

Your 81, June 25, 11 a.m.

The Cuban Minister left, yesterday, with the Department, by instruction of his Government, a memorandum³⁴ containing suggestion of the Cuban Government referred to in your telegram for flotation of new foreign loan of \$70,000,000. Together with that sug-

³³ *Foreign Relations*, 1904, p. 243.

³⁴ Not found in Department files.

gestion was conveyed a project for the establishment of a central bank of issue. The latter project, as outlined, appears to be unsound and does not call for immediate consideration.

The Department is advised by a group of New York bankers that the maximum Cuban loan which it is believed could now be floated in the United States is \$50,000,000. In view of the provisions of Article 2 of the Platt amendment, it is believed that additional revenue to secure such a loan is required. Furthermore, in view of the very grave financial situation of the Cuban Government, it is not thought that American bankers will be willing to advance the said amount to the Cuban Government unless provision is made for the appointment of a Commission satisfactory to this Government and to the American bankers, empowered to administer the proceeds of said loan and to control that portion of the revenues necessary to meet the service of this obligation. In the opinion of the bankers, approximately half, or perhaps a larger portion of the loan, should be advanced to the Cuban Government for the purpose of meeting current obligations and extinguishing the deficit, the remainder to be utilized to pay up the capital stock of a Cuban Finance Corporation modeled upon the War Finance Corporation of the United States, this Corporation to have power to extend credits to purchasers of Cuban sugar, to make advances on sugars in warehouses, and to purchase sugars in an amount not exceeding the estimated surplus of the present sugar crop at the lowest practicable price.

The Department has not yet received your recommendations upon the loan proposition as suggested by President Zayas and is desirous of receiving, at the earliest possible date, your analysis of the proposed budgetary legislation and the financial statement of the Government. In the meantime, in order to expedite matters it desires you to send, by cable, your views as to the suggestion communicated to the Department by the New York bankers, and to convey the same to the Cuban Government, transmitting, as soon as possible, the opinion of the Government regarding it. The Cuban Minister has informed the Department that the Government of Cuba will be willing to send a delegation to the United States to confer with the Department and with the banking interests in order that an agreement regarding the loan proposition might be reached here in the United States. The suggestion was made that such a delegation would be composed of the Secretary of the Treasury, a senator and a deputy. The Department believes that if such a delegation were to receive full powers from President Zayas to negotiate a loan in the United States, matters would be expedited and the result would be beneficial. Please communicate this opinion of the Department to the President.

HUGHES

837.51/503 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, June 30, 1921—4 p.m.

[Received July 1—2:03 a.m.]

84. Replying to your number 126, June 29, 6 p.m., just received. Work of American expert accountants on statement of National Treasury not yet completed but sufficiently advanced to enable me to advise that the Department should assume in all negotiations for a loan that the deficit in the National Treasury will not be below what is stated in my 81, June 25th, paragraph one. It follows that the loan proposed by New York bankers would be little more than sufficient to extinguish the national deficit.

You will recall that Zayas loan proposition, communicated in my number 81, was tentative only. At a conference between us yesterday he offered the substitute plan of two loans, one foreign and the other interior; the interior loan to be under terms and conditions similar to the interior bond issue of 1917 and to be exclusively available for the extinguishment of the national deficit. He believes that such bonds would be received by the holders of current obligations at their par value and that a great saving could be effected in this way. The foreign loan, under Zayas's plan, would be exclusively available for extension of credits to purchasers of Cuban sugar and for making advances on sugar in warehouses as proposed in your telegram 126, June 29th.

At this same conference with Zayas we discussed the most expeditious procedure that could be followed to advance the enactment of the necessary budgetary and revenue legislation to meet the existing financial crisis. He has asked Congress to adjourn the regular session, but before doing so to appoint a mixed committee of the Senate and House to advise with him as to a legislative program for an extraordinary session of Congress to be called by him at an early date and which, under the terms of article 57 of the Constitution, may consider only the express objects for which it meets. It is contemplated that the mixed committee will, in addition to submitting a legislative program for the extraordinary session, undertake to draft a revision of the budgetary laws and of the revenue laws of the Republic, based upon prudent calculations conducted by experts which would demonstrate the adequacy of the revenues to provide, not only for defraying current expenses of the Government but also the necessary interest and sinking fund charges on the entire public debt of Cuba including any new loan or loans that may be negotiated.

I am requesting an audience with the President this afternoon and will take up with him the offer of American bankers as set forth in your telegram 126 and hope to communicate the results of this conference in a further cable tonight.

CROWDER

837.51/504: Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, July 1, 1921—5 p.m.

[Received 10:40 p.m.]

86. Further replying to your number 126, June 29, 6 p.m. After conference Zayas asks me to submit for consideration of the Department the general plan for an interior loan, in the amount necessary to liquidate the duly ascertained National Treasury deficit and exclusively available for that purpose, as suggested in paragraph two of my urgent 84 of yesterday.

Zayas authorizes me to say further that he accepts in principle the plan of American bankers for a foreign loan, proceeds to be administered by a Cuban finance commission with personnel satisfactory to the United States Government and bankers making the loan but with the understanding that its powers and duties would parallel those of our own War Finance Corporation in the following regards:

1st. The entire capital stock to be subscribed by the Cuban Government out of the proceeds of the foreign loan to be authorized, which amount should be adequate for and exclusively applicable to Government loan purpose; that the capital stock should not be less than \$50,000,000, the minimum that would enable the corporation to meet the existing crisis; and that as the proceeds of the loan are to be used as a revolving fund to amortise itself, the amount of the loan authorized might well be fixed at a larger sum, say \$75,000,000 to be utilized in the amounts deemed necessary by the Cuban finance commission to accomplish the purposes of the loan.

2d. The Cuban finance commission to be vested with the powers given by statute to the War Finance Corporation, to issue, at prescribed rates of interest and for prescribed periods, and to have outstanding at any one time, its bonds, the amount thereof to bear a prescribed relation to the capital stock and to be secured by a first and paramount lien upon all the assets of the corporation; the transactions of the commission to be, in the main, limited to liquid securities.

3d. The said finance commission to be vested with the power to control that portion of the revenues necessary to meet the services of the foreign loan with the understanding that such control would

be limited to the amount set aside by the loan statute for interest and sinking fund charges and would not extend to outside supervision of the collection of this portion of the revenue, which collection would be left in the hands of Cuban officials. Zayas further asked me to state that he had not authorized the Cuban Minister to suggest the sending of delegation to the United States to confer with the Department and with banking interests at this time; that he is of the opinion that there would be no proper basis for loan negotiations until the mixed committee referred to in my number 84 of yesterday had framed such a revision of the budgetary law of 1918 and 1919 downward and of the public tax laws of the Republic upward, as would afford convincing proof that the ordinary revenues had been made or would be made adequate, not only to defray the current expenses of the Government, but also interest and sinking-fund charges upon the total public debt including the new loans. He is willing, however, to send commission at an earlier date if the Department desires.

I am of the opinion that the revision of budgetary laws downward should include adequate provisions for abolishing *botellas* as heretofore constituting such a severe drain upon the Cuban Treasury and probably also the abolition of private *colecturías* of the lottery, saving only such as are in the nature of pensions and stand in the name of persons who have a claim as pensioners upon the public Treasury.

CROWDER

837.51/513 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, July 8, 1921—2 p.m.

[Received 11:15 p.m.]

89. Executive decree issued yesterday appointing committee with powers and duties substantially as outlined in my number 84, June 30th, paragraph 3, and my despatch of July 3rd, paragraph 2.*

Decree provides that in view of the negotiations pending between the two countries I shall be invited by the President to sit in an advisory capacity to the committee. Committee meets Monday July 11th and is required to complete its work by August 1st. I am informed from the Palace that a second decree is issuing today requiring Congress to meet in extraordinary session July 18th. My work here will be rather urgent until necessary legislation is enacted.

CROWDER

* Despatch not printed.

837.51/515a

The Secretary of State to Messrs. J. P. Morgan & Company

WASHINGTON, July 9, 1921.

GENTLEMEN: With reference to our conversation by telephone of this morning, when you stated that your Company, before proceeding further in negotiations for the flotation of a Cuban Government loan, desired to assure itself that the Government of the United States would consent to complete control by officials of this Government of the national finances of Cuba, I desire to inform you that the Department of State is not prepared at this time to make any definite reply in the matter. In view of the obligations of this Government under the Platt Amendment incorporated in the Treaty of 1903 between the United States and Cuba, the Department of State will feel itself obliged, before authorizing any increase in the public debt of the Republic of Cuba, to assure itself that the ordinary revenues of the Republic are sufficient to meet the service of such debt. The Department of State is advised that measures are now contemplated by the Cuban Government for the reduction of the national expenses and the increase of the national revenues to such an extent as to make possible the service of the proposed Cuban loan from the ordinary revenues of the Republic. When the Department is advised that such measures have become effective, it will consider further, in the light of its obligations above referred to, any proposals which you may desire to bring to the attention of the Cuban Government in connection with the flotation by you of the desired Cuban loan.

Believe me [etc.]

CHARLES E. HUGHES

837.51/515

Messrs. J. P. Morgan & Company to the Secretary of State

NEW YORK, July 13, 1921.

[Received July 14.]

SIR: We beg to acknowledge receipt of your letter of July 9th, 1921. We note that when the Department of State is advised that the measures now contemplated by the Cuban Government for the reduction of the national expenses and the increase of the national revenues have become effective, it will consider further, in the light of its obligations under the Platt Amendment, any proposals which we may desire to bring to the attention of the Cuban Government in connection with the flotation by us of the desired Cuban loan.

We had not intended to suggest the control by officials of the United States Government of the national finances of Cuba, but had in mind the necessity of some effective control, for instance, by officials appointed by the Cuban Government upon the nomination of the fiscal agents of the loan, with the approval of the United States. Without this safeguard, it has seemed to us, as well as to the bankers whom we have consulted, impossible to consider an issue of a Cuban Government loan to the American public.

The negotiations conducted last Fall with the Cuban Government, at the request of the Department of State, were abortive and we have not had any recent communication with that Government upon the subject. Of late, we have endeavored to keep in touch with the Department of State with a view of assisting, if possible, in a situation which appears to us to be of the utmost gravity.

In view of the relation which we have borne to the proposal for a Cuban Government loan, we have been anxious that we should not appear by any act or omission of ours, to delay the solution of the problem. Market conditions, however, in this country, and the special conditions affecting Cuba at this time, are such that it will be impossible to do anything for Cuba except upon a constructive plan having the hearty support of the Department of State. At the moment there seems nothing that we can do except upon some further suggestion from the Department of State or the Cuban Government.

Assuring you [etc.]

J. P. MORGAN & Co.

837.51/504 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, July 15, 1921—6 p.m.

131. For General Crowder.

Your No. 86, July 1, 5 p.m.

The Department coincides in the opinion expressed by Dr. Zayas that there can be no definite basis for loan negotiations until there has gone into effect such a revision of the budget of 1918-19 downward, and of the national revenues upward, to be recommended by the Mixed Legislative Committee, as would give definite assurance that the ordinary revenues of the Republic would be adequate to provide for the current expenses of the Government and to meet the service of the total public debt, including any new loan which may be desired. Moreover, the Department of State would necessarily, in view of Article II of the Platt amendment, be unable to approve any increase in the public debt until such assurances were forthcom-

ing. Nevertheless, the Department regards the Cuban financial situation, in view of the reports received from you, as being so grave that it believes all possible expedition should be used in providing remedies. It now appears that the flotation of a government loan will be a necessary portion of such remedies. The Department considers, therefore, that the immediate despatch to the United States of the Delegation referred to in its No. 126 of June 29, 6 p.m., with full powers to discuss with American banking interests the basis and terms upon which the Cuban Government loan could be floated in the United States, once the ordinary revenues of the Republic are known to be sufficient to meet the service thereof, will expedite matters and make it possible when the Cuban Congress shall have passed upon the recommendations of the Mixed Legislative Committee to proceed immediately with the flotation in this country of the desired loan.

Please communicate to President Zayas the views of the Department as set forth above.

HUGHES

837.51/534

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, July 21, 1921.

[Received July 25.]

DEAR MR. SECRETARY: Because President Zayas in his message to the Extraordinary Session of Congress used language which would leave it to be inferred that he contemplated but one loan—an interior bond issue—sufficient to extinguish the National Treasury deficit; and because articles appearing in the Havana press were confirmatory of reports that had reached me from other sources, that many members of Congress were of the opinion that an interior loan would not require the sanction of our Government, I decided to defer bringing to the attention of the President that portion of your cablegram Number 131, July 15, 6 P.M. in which you set forth the advisability of the immediate despatch to the United States of a Cuban delegation with full powers to discuss the bases and terms upon which a loan could be floated.

I immediately sought a conference with the President and asked him the direct question, if he contemplated only an interior bond issue to take care of the national deficit and had definitely decided to dispense with the foreign loan to which he had tentatively committed himself in the interview with him which I reported to the State Department in my Urgent No. 84. He replied that he himself

realized the necessity for a foreign loan in addition to the interior loan, but that he had ascertained that Congress was assembling in a hostile mood toward a foreign loan and that this hostility, confined mainly to the Liberal Party, was shared to some extent by the Liberal members of the Mixed Committee. He said that, in view of this situation he deemed it inadvisable in his first message to the Extraordinary Session to urge the necessity for a foreign loan, but that he would do this later when he felt that he could rely upon the necessary majority in both Houses.

I then asked him, again very directly, whether it was true that many Members of Congress considered that an interior loan would not fall within the provisions of Article 2 of the Platt Amendment, and therefore did not require the sanction of the United States Government. He answered that a number of Members of Congress expressed themselves to that effect, but he authorized me to say that he himself did not so construe Article 2; that he recognized fully that interior loans, such as were negotiated by the Cuban Government in 1905 and again in 1917, were "public debts" within the meaning of said article and therefore required, equally with foreign loans, the approval of the Government of the United States. He advised me not to take too seriously the congressional debate on this subject, and predicted that we would hear more of similar import as the debate progressed, proceeding mainly from those members who are impatient with the restrictions which the Platt Amendment placed upon the sovereignty of Cuba.

I then took up with the President the propriety of sending at once a delegation to the United States to discuss with the Department and with American bankers the basis and terms upon which either an interior or exterior loan could be approved. The President will take this matter up with the Mixed Committee today and I shall see him tomorrow morning. I anticipate that such a delegation will be named at an early date. I attach great importance to the conferences at Washington with such delegation. I anticipate that there will be no insuperable difficulty in convincing the Department that a revision of the budget is under way which will provide the margin of receipts over expenditures necessary for the service of the public debt including new loans. I am not blind to the fact that when you come to discuss with said delegation the guaranty which Cuba can give that the said margin will be maintained, we shall come up against the real difficulty. Before such conference can take place I will advise the Department of certain conditions precedent to the sanctioning of any loan, either foreign or interior, that I think ought to be discussed with said delegation.

Very respectfully,

E. H. CROWDER

411.373Su/14 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, July 27, 1921—2 p.m.

[Received 6:35 p.m.]

94. Referring to your number 137, July 26, 5 p.m.³⁶ Zayas hopes to start delegation of five to Washington next Tuesday to discuss with Senate Finance Committee tariff relations between the two countries. Two members of Commission, one of them Secretary of the Treasury Gelabert, will, with Minister Céspedes, confer with Department and American bankers on the subject loans. Prior to arrival of the delegation will have before the Department the best review and the most definite recommendations which I can prepare on all matters coming within the scope conferences with Department and American bankers.

CROWDER

837.51/546a

The Acting Chief of the Division of Latin American Affairs, Department of State (Welles) to the Representative on Special Mission in Cuba (Crowder)

WASHINGTON, August 1, 1921.

MY DEAR GENERAL CROWDER: It has not been possible for me, because of my unavoidable absence from Washington for a few days, to communicate with you during the past week in order to acknowledge the various letters from you (up to and including that of July 27³⁷) which have been received here during my absence.

By instruction of Mr. Hughes, I am transmitting to you herewith a copy of a memorandum which I handed to him on July 28, reporting the substance of various conversations which I had in New York regarding the Cuban financial situation and making certain specific recommendations in view of the information which I had received. You will understand, of course, as does the Secretary, that these recommendations are made purely in the light of the facts which I have been able to collect at this end, and that while they meet with the Secretary's approval, they are subject to any amendment or alteration which you believe wise, and to have substituted for them any other plan or plans which you may consider more appropriate.

³⁶ Not printed.

³⁷ Letter of July 27 not printed.

The points to which I would like to give most emphasis are the following:

1. That it is the definite feeling here that an interior loan, for the reasons set forth in the attached memorandum, should not be permitted;
2. That the flotation of an external loan is essential to enable the Cuban Government to extinguish the existing deficit and to give relief to the sugar producers;
3. That a Cuban loan can not be floated in this country unless the American public can be assured that certain definite guarantees have been given to insure the collection of a sufficient portion of the ordinary revenues of the Republic to meet the service of such loan.

I have been somewhat perplexed by the repeated reports that have come to me that the Cuban Congress would not sanction the flotation of any loan other than an internal one, in the apparent belief that the United States Government would not consider an internal loan to be an increase in the public debt of Cuba in the light of Article II of the Platt Amendment. I assume that these reports are incorrect. I do not see how it can be seriously questioned that an internal loan is as much an increase in the public debt as an external loan, and our action in Santo Domingo in 1916³⁸ would necessarily establish a precedent as to the opinion of the Department of State in the matter.

We are sending to you, as you already know, Mr. W. E. Pulliam as the expert on tariff requested by you. It had been my desire to procure for you the services of Dr. W. S. Culbertson of the United States Tariff Commission, but the President was unwilling to release him in view of the fact that the new tariff bill will be considered by the Senate here during the coming months. Mr. Pulliam was therefore the best available man. He has had long experience in the Philippines and in Santo Domingo in connection with tariff matters, and speaks Spanish. I presume that his services will not be required by you for any extended period and Mr. Pulliam has consented to go to Cuba in the same belief, since it is his hope that the President will appoint him to the Receivership General of Customs of Santo Domingo, which position he held prior to 1913.

I trust that you are in accord with our belief here that the Cuban delegation to negotiate a loan in this country should proceed to the United States without delay. I understand, of course, that such a delegation cannot, at the present time, enter into any formal or final negotiations to that end. I see, however, such a wide divergence between the views of the bankers in this country and the Cuban Government as to the terms of the necessary loan that I feel that much time can be saved by preliminary conversations between the

³⁸ See *Foreign Relations*, 1916, pp. 249 ff.

members of the delegation and the bankers, in which it is my hope that some adjustment can be found. I believe that it is perhaps preferable to have the delegation come here with that object, rather than to have the Cuban Government request the bankers to send representatives to Havana.

Believe me [etc.]

SUMNER WELLES

[Enclosure]

*The Acting Chief of the Division of Latin American Affairs,
Department of State (Welles) to the Secretary of State*

[WASHINGTON,] July 23, 1921.

DEAR MR. SECRETARY: I took the opportunity of my presence in New York yesterday to have a series of conferences regarding the present financial situation in Cuba and the possibility of Cuba's obtaining financial assistance in New York under present market conditions with Colonel Tarafa (ex-President Menocal's foremost adviser on financial matters); Senator Cosme de la Torriente, Chairman of the Financial Committee of the Cuban Senate; Mr. Norman Davis; Mr. Russell Leffingwell, former Assistant Secretary of the Treasury; and Messrs. Stettinius, Whitney and Hanson of J. P. Morgan & Co.

The first conference I held was with Colonel Tarafa. The representative Cuban point of view, as set forth by him, would seem to be as follows:

- That the Cuban Government unquestionably needs financial assistance in the shape of an interior or exterior loan, to an amount sufficient to help the Government extinguish the existing deficit of \$46,000,000 and meet its current obligations;
- That a loan for any other purpose is unnecessary and inadvisable on the ground that the only purposes to which the proceeds of any further loan could be applied would be either to the purchase by the Cuban Government, itself, of the existing surplus of sugars amounting to some 1,000,000 tons, which is clearly impractical; or to the application of the proceeds of any additional loan to the extension by the Cuban Government of financial credit to plantation or mill owners and to the banks which have loaned money upon such properties.

Colonel Tarafa expressed the belief that if a loan of, say, \$25,000,000 were obtained by the Cuban Government to help relieve the present stagnation in the sugar industry, its effect would be to stimulate the next year's sugar crop, which is, of course, the result least to be desired. He stated that because of the conditions which were bound to continue for the next two or three years, only the plantation owners holding properties in the eastern half of the Island could pull through, and that the plantation owners in the western

half (because of a difference in transportation rates, quality of the cane, price of labor, etc.), producing approximately 40% of the total Cuban crop, are bound to go under, no matter what temporary relief might be extended to them. It was his opinion that notwithstanding the effect of the failure of the owners of these properties, it is better to have the crash come now and to have the Island start once more on a sound basis, than to postpone the crash for some years, when it is, in his opinion, inevitable.

Colonel Tarafa likewise stated to me that the country branches of the large Havana banks which are now in the hands of the Superior Liquidating Commission acting as receiver, have, notwithstanding the legal prohibition contained in the legislation creating that Commission, continued to accept deposits from the small depositor, and that the volume of such deposits, which he alleges have gone into the pockets of the stockholders of the banks, is very considerable. He stated that he had brought certain specific instances of this nature to General Crowder's attention, but that this flagrant violation of the law still continues, and he fears the effect upon the laboring classes which [*when*] the fact becomes known. He urges that the Cuban Government be advised by this Government that it must insist that the penal code, which he states is now being ignored, be most rigidly enforced.

To sum up, Colonel Tarafa recommends that this Government insist that the Cuban Government enforce the penal code; that when the ordinary revenues of the Republic are sufficient, it authorize the flotation by the Cuban Government of a loan; external or internal, for the sole purpose of extinguishing the present national debts and assisting the Government to meet its current obligations; and that no action be taken in the way of extending credits to the sugar industry in Cuba, but that matters be allowed to take their normal course.

Mr. Norman Davis, who, because of his interests in Cuba, has been following the financial situation very closely, discussed the situation with me at great length. As a result of my conference with him and with the New York bankers above mentioned, I have the following concrete recommendations to offer as the best method by which this Government may assist the Cuban Government to solve the existing financial crisis once this Government is officially advised that the ordinary revenues of Cuba are sufficient to enable it to float an additional loan of \$50,000,000.

I. The flotation by the Cuban Government of an external loan (long term, if necessary), to meet the national deficit and assist the Government to pay its current obligations. In Mr. Davis's opinion, while the national deficit is \$46,000,000 it will not be necessary for

the Cuban Government to obtain that amount, but that \$30,000,000 would be amply sufficient to tide the Cuban Government over its present difficulties and enable it to clean up the deficit in a comparatively few months.

II. The flotation by the Cuban Government of an additional external loan of \$20,000,000 (preferably short term notes) to help relieve the sugar situation and initiate the liquidation of the present frozen credits.

That a Cuban Finance Commission be constituted by the Cuban Government similar in a general way to the War Finance Corporation of the United States; that this Commission be composed of two members appointed by the President of Cuba, two members nominated by the American bankers who float the Cuban loan for appointment by the President of Cuba, one member nominated by the Federal Reserve Board of the United States for appointment by the President of Cuba; that the Commission have the following additional specific powers:

- To supervise the application of the proceeds of the total external loan of \$50,000,000;
- To receive that portion of the revenues of Cuba obtained from a certain definite percentage of the customs or from certain stipulated taxes necessary to meet the service of the additional \$50,000,000 loan;
- To have the right to investigate the Cuban bureaus or offices initially receiving such revenues and to replace (by act of the Cuban Executive) any Cuban officials in such bureaus or offices found to have mal-administered funds passing through their hands, or considered negligent or inefficient;
- To have submitted to it by the Cuban President any project of law providing for an increase in the budget or a decrease in the ordinary revenues of the Republic, the Cuban President to veto any such measure unless such measure obtains the approval of the said Commission.

That the Commission be authorized, after passage of the necessary legislation, to extend from the proceeds of the \$20,000,000 loan, a credit of \$2 per bag on the sugars of any sugar producer in Cuba on a quantity not to exceed 75% of the average annual crop of such sugar producer for the past three years; such credit of \$2 per bag to be made by law the first claim upon those sugars on which credit is thus extended.

The present price of sugar is approximately \$6.50 to \$7. per bag. A credit of \$2 per bag will enable only those sugar producers who can be saved to pull through and will not prevent sugar producers in unsound condition from going under. It will thus reduce next year's sugar crop without any artificial or arbitrary method of reduction and will enable such sugar producers as are in comparatively

favorable circumstances to recoup within a comparatively brief period. The \$2 a bag extended by the Government being the prior lien on each bag, the Government cannot lose. An extension of credit in this manner by the Cuban Government commends itself to the banking interests who have loaned money on sugar in Cuba as the one means by which the producers can continue doing business and eventually repay the banks the moneys which they have advanced. It will likewise make impossible any partiality or favoritism in the extension of credits by the Government, since all sugar producers will be placed on an equal footing. In the opinion given me yesterday by the bankers with whom I spoke in New York, probably not more than \$10,000,000 or \$15,000,000 of the \$20,000,000 suggested will be required. I should like to emphasize above all, the fact that this plan will prevent any stimulation of next year's crop, and consequently make probable next year a return of Cuban sugars to something approaching their normal value.

The idea of an internal loan to meet the existing Governmental deficit, which appears to be favored by President Zayas, seems entirely impracticable. In the first place, it is exceedingly doubtful whether any internal loan could be floated by the Cuban Government. In the second place, the payment by the Cuban Government of its outstanding obligations by interior bonds, which would unquestionably depreciate immensely within a brief period, would have a ruinous effect upon the credit of the Cuban Government.

The major portion of my conversation with the representatives of Morgan & Company was confined to a discussion of just what control any American bankers floating the Cuban loan would have over the revenues of the Cuban Republic. They were at first insistent that no Cuban Government loan, because of the developments in the Cuban finances during the last six months, could be floated in this country unless the average investor could be assured that the revenues necessary to meet the service of that debt would be collected and distributed by American officials. In other words the bankers feared that the only practical way to make the loan go would be the constitution of a receivership general of Cuban customs similar to that now obtaining in Santo Domingo or in Nicaragua. I expressed to them my belief that if such measures were put into effect, the Cuban Government would resign and intervention by the United States would consequently become necessary, which the President desired, at almost any cost, to avoid; also, that the impression created in Latin-America as a whole would be exceedingly unfortunate. I explained to them that while the details of the plan above suggested had not been worked out, the Commission referred to would have complete control in fact over

the collection of that portion of the Government's revenues necessary to meet the service of the new loan and would, at the same time, have the right to prevent any decrease in the national revenues while leaving the actual physical collection of customs revenues or taxes in the hands of local Cuban officials. I may remind you that General Crowder has reported that President Zayas will probably consent to some scheme of this nature, which would save the dignity of the Cuban Government. Mr. Stettinius and his partners finally came around to the opinion that the plan above outlined would probably be satisfactory from their point of view and would make it possible to float a loan of \$30,000,000 in this country in the near future.

The question was raised whether it would not be advisable for Morgan & Company to send one of the partners to Cuba if an intimation were received from President Zayas that such a visit were desired to discuss the flotation of the necessary loan with the members of the Government. I told them that if their representatives were invited by President Zayas and would abide by any recommendations which might be made by General Crowder in line with our general policy of assisting Cuba in its financial rehabilitation, such a visit might be desirable, although it appeared to me that the approaching visit to this country of a special Cuban delegation to arrange for the loan would probably be all that was necessary. The advantage of the visit of the Cuban delegation would be, in my opinion, that the delegation could negotiate with any and all bankers in this country interested and thus obtain the most favorable terms.

The opinion seems to be general that the Cuban sugar commission should not now be dissolved; that the lack of benefit resulting from the work of the Commission has not been due to the creation of the Commission, but to the personnel of the Commission, and it appears to me highly desirable that the members of the Sugar Commission be replaced by more competent men at an early date.

S[UMNER] W[ELLES]

811.71637/5

The Secretary of State to the Representative on Special Mission in Cuba (Crowder)

WASHINGTON, August 6, 1921.

SIR: I am enclosing herewith a copy of a communication addressed to me by the Postmaster General under date of August 1, 1921,⁸⁹ in which he calls attention to the fact that the Postal Admin-

⁸⁹ Not printed.

istration of Cuba now owes to the Post Office Department of the United States on money order account according to the lists of orders paid in each country, approximately, \$1,000,000. The Postmaster General states that the Post Office Department of the United States is financing that of Cuba to the extent of approximately this sum and that so large an amount, of course, seriously embarrasses the postal money order system, which is obliged to meet its obligations promptly.

I should be glad to have you bring this matter, without delay, to the attention of the Cuban Government and request that prompt arrangements be made by the Director General of Cuban Posts for the remittance of the amount now owing to the United States Post Office Department.

I am [etc.]

CHARLES E. HUGHES

837.51/547 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, August 11, 1921—4 p.m.

[Received August 12—1:10 a.m.]

100. For consideration in the conferences now on in Washington I transmit the following:

The Department was advised in my despatch of July 26⁴⁰ transmitting draft of two messages which President Zayas proposed to send and afterwards did send to the Cuban Congress, the views he entertained respecting the necessity for an interior and foreign loan and some of the terms and conditions of the latter. I am [*was?*] told that the consideration by the Cuban Congress of a proper loan statute would await all information the Gelabert Commission as to the terms and conditions which should be incorporated in such a statute. Much to my surprise there was presented yesterday in the Lower House complete projects of two statutes, one for an interior and the other for an external loan (English copies go forward in tomorrow's mail⁴¹). I learned of this about noon and immediately got in touch with the President who gave me the following explanation: That in his opinion the present time was most propitious for dealing with this subject in the Cuban Congress and especially in the Lower House; that when the loan contracts were ready for consideration it would be a simple matter to modify

⁴⁰ Not printed.

⁴¹ Transmitted in unnumbered despatch of Aug. 11; not printed.

the loan statutes and that it would be much better to proceed with the enactment of such statutes now, particularly in the Lower House, than to wait for a complete knowledge of the terms of the loan contracts and then begin a discussion of the loan statutes. In other words, that it was purely a matter of parliamentary tactics to be employed and not one of the difference of opinion between us as to what should be the final form of the loan statute.

The more essential provisions of the foreign loan statute which I have reason to believe will be speedily passed by the House are the following:

1. Full authority to the President to determine all the conditions of the foreign bond issue with the single exception of the period of the loan fixed by the statute at 30 years, but with the proviso that the President must stipulate that the whole of the loan may be amortized before the expiration of the 30-year period. Net proceeds of the loan fixed at 50 million. Security: (1) the good faith of the Republic for amortization and payment of the interest; (2) such revenues as may be specially designated by the President.

2. Proceeds of the loan to be paid into National Treasury and administered by a "financial commission of production" consisting of three members with prescribed qualifications which do not in terms exclude foreigners, all to be appointed and freely removed by the President.

3. The powers of the commission are defined in the broadest terms to include making of contracts, loans upon real estate, mercantile and industrial paper, crops, products fabricated or to be fabricated which would probably include sugar in storage; and "for purposes beneficial to the development of agriculture, industry, commerce, and the increasing of production and resources". Commission to fix period of loans and rate of interest and admonished to "adopt all precautions to maintain prudent proportions between the amount loaned and the estimated value of the security". Accruing interest to be paid into the National Treasury as general receipts and expenses to be provided for in the annual budget. There is no provision for the insurance [*issuance?*] of bonds by the commission.

4. The remainder of the statute is devoted to an increase of existing rates of taxation and imports exclusive of customs, and the establishment of new taxes. This part seems identical with the corresponding provisions of Gelabert's scheme for an interior loan down to article 29 transmitted with my despatch of July 24th.⁴²

Already I am in receipt of complaints that certainly explain why rates prescribed are excessive to the point of being confiscatory and

⁴² Not printed.

the evidence multiplies that the scheme of taxes provided in the loan statute is not based upon an exhaustive analysis and study of the existing revenues and a revision upward of such of them as ought to carry the burden of the service of the new loan. I am very certain that no one connected with this Legation is in a position to estimate even approximately the revenue-producing qualities of the revision of the revenues proposed by them in this loan statute.

CROWDER

837.51/561 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, August 17, 1921—1 p.m.

[Received 5:37 p.m.]

104. Yesterday the House of Representatives took up quite unexpectedly to me the pending budget bill, approved in principle the said bill as it passed the Cuban Senate August 3rd, an advance copy of which I transmitted with my despatch number [*unnumbered*] July 18th, 1921,⁴³ and the Senate copy of which has been shown the Department by the Gelabert Commission. Bill is being read today in the House article by article for amendments and will doubtless be passed today.

In July I attended a session of the Mixed Commission presided over by President Zayas and explained the importance of this budgetary law and as well of a revision of the tax laws in establishing the public credit. I announced also my desire to work with subcommittee appointed to consider revision downward of the budget and upward of the tax laws. Notwithstanding this notice I have not been consulted either as to this budget law or as to the project of an exterior loan statute, transmitted as exhibit B to my despatch of August 11th,⁴³ and which carries a piecemeal revision of the tax laws. Not having had any opportunity for conference with committees of Congress or department officials respecting the provisions of either bill, I am without the information necessary to express a final opinion upon either but from information which I have gathered, I entertain no doubt as to the result that the budget should be further reduced beyond the point provided in the bill now under consideration and that the piecemeal revision of tax laws relied upon to provide the increased revenues necessary to defray expenses of Government and meet the service of the public debt were [*was*] inadequate. It is difficult to understand why the Cuban

⁴³ Not printed.

Congress is rushing final action upon legislation so vitally affecting negotiations now in progress at Washington unless advised so to do by the Gelabert representatives.

CROWDER

837.51/560a : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, August 17, 1921—4 p.m.

145. For General Crowder.

The Department desires you to inform President Zayas immediately that it has given consideration to the projects of law providing for the flotation of an interior bond issue and an external loan, the former of which it is advised has now passed the House and is now pending action by the Senate. In the opinion of the Department, the former project is insufficient, particularly because of its failure to pledge specific revenues to secure interest and amortization, and there would appear to be considerable objection to Article V of the said project because of the possibility that its execution may result in much bargaining.⁴⁴

You may further advise the President that the Department concurs in your views as to the inadvisability of an interior loan as stated in your despatch of July 31.⁴⁵ You should likewise make it entirely plain to President Zayas that the Department sees no distinction between an interior bond issue and a foreign bond issue in that both constitute the increase in the public debt contemplated in Article II of the Platt Amendment.

The Department has further noted that the project for the external bond issue provides for a partial revision of the tax laws of the Republic. In the Department's opinion, only a comprehensive revision of the tax laws of the Republic can guarantee the excess of receipts over expenditures required for the service of an additional increase in the public debt and the Department desires you to convey to the President its regret that it has not yet been advised that a comprehensive revision of the tax laws is being undertaken. For the above reasons, the Department hopes that the President will cause action on these two projects to be deferred pending the outcome of the conferences now being undertaken in Washington between the Department and the Cuban Delegation headed by Secretary Gelabert.

HUGHES

⁴⁴ Article V provided for the establishment of a commission to examine and verify all claims against the State, the payment of these claims being the purpose of the proposed internal loan (file no. 837.51/555).

⁴⁵ Not printed.

837.51/563 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, August 18, 1921—1 p.m.

[Received 6:48 p.m.]

105. Proper paraphrase of your 145 August 17, 4 p.m. presented to President Zayas before 11 this morning.

Yesterday the House passed the Senate budget bill with amendments among which was the 4 percent profit tax replacing it with a 50 percent increase in the stamps to be placed on invoices. Amendments will probably throw bill into conference. The program for the House today under consideration of the external loan statute. Whether President Zayas will take effective steps to delay House action thereon in pursuance of the request made upon him this morning remains to be seen.

CROWDER

837.51/561 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, August 18, 1921—5 p.m.

146. For General Crowder.

Your urgent 104, August 17, 1 p.m.

Department advised by Cuban Legation that Budget Bill passed by Cuban Senate August 3, was yesterday passed by the House of Representatives and has been sent to the President.

The Department desires you to inform President Zayas of the earnest hope of this Government that the budget as passed by the Cuban Congress will not meet with his approval, in view of the fact that the budget would appear to provide for expenditures very much in excess of the expenditures strictly necessary, and in view of the fact that the budget as passed exceeds by \$6,000,000 the budget proposed in accordance with the Cuban Constitution by the Cuban Executive.

The Department is informed by Secretary Gelabert that he has recommended to President Zayas that the latter veto the budget as passed by the Cuban Congress.

HUGHES

837.51/566 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, August 19, 1921—11 p.m.

[Received August 20—1:20 a.m.]

106. Referring to your number 145, August 17th, 4 p.m. Have just concluded two-hours conference with President Zayas. He readily agreed to take effective steps at once to defer further action by Congress on both exterior and interior loan statutes pending outcome of conference at Washington.

Referring to your 146, August 18, 5 p.m. Upon disagreeing vote of the Senate budget bill went to conference where Zayas promises to hold it pending further exchange of views between the two Governments. He showed me telegram from Céspedes stating that the Department had demanded the veto of this bill and asking for instructions. Zayas claims that under the bill he is left sufficient discretion to limit the expenditures and that he will exercise that discretion in such a way as to keep the budget expenses within 65 millions; that he will favor an amendment to the bill appropriating all receipts over that amount to the liquidation of the floating indebtedness incurred prior to May 20th, 1921, payable monthly; that he would bind himself in an exchange of notes to veto any law enacted by the Cuban Congress in all recent-date appropriations, that [assigns?] excess [of revenue?] or any portion of it to any other purpose than the extinction of the floating debt and that he will utilize the time that the bill is in conference to frame a tentative budget along these lines. He asks the Department to hold in abeyance its [request?] for veto until he can complete the tentative budget and submit the results to the judgment of the Department. He promised to telegraph Céspedes in this sense tonight.

I doubt if under parliamentary rules the bill is subject to the amendment proposed by Zayas. I think it doubtful also if Zayas is given the discretion he says he has under its expenditures. I am holding further conference on this and other parts of the bill tonight with a member of Congress and Secretary Cortina⁴⁶ and hope to make definite recommendations tomorrow.

CROWDER

⁴⁶ Dr. J. M. Cortina y García, Secretary to President Zayas.

837.51/567 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, August 20, 1921—10 a.m.

[Received 5:22 p.m.]

107. The Department's numbers 145 and 146 have been helpful. Since their receipt Zayas and the Congress have apparently abandoned the hope that they could get better terms through the Gelabert Commission than I was offering here. In the light of last night's conferences and my conference yesterday with the President I reach the following conclusions:

1st. That Zayas has ample discretion as the budget bill now stands to limit amount of the budget.

2d. That it is practicable to amend the bill in conference so as to appropriate any excess of revenue to payment of floating indebtedness.

3d. That if the Cuban Government is informed through the Gelabert Commission in Washington and through me here that having regard to the urgent economies that must be practiced as a means of restoring public credit, 50,000,000 would be a reasonable budget and 55,000,000 should be an outside figure, the budget will be promptly revised downward to the latter point with adequate provision for all branches of the public service including sanitation.

4th. That if it be similarly announced that article 14 of the exterior loan statute pending in the House must be broadened in scope to include a more comprehensive revision of the internal tax laws as a condition precedent to securing a loan with the proviso that surplus revenues shall be applied to the payment of the floating debt such revision will be rather promptly made.

5th. That Zayas will pledge himself, by an exchange of diplomatic notes, to veto any special law of Congress appropriating surplus revenues to any other purpose than the extinction of floating debt.

If this plan be pursued, I am convinced that a margin of receipts over expenditures could be established sufficient to liquidate the floating debt in period of three, and possibly two, years and that we should be able to dispense with an interior loan, also that plan provides ample security for the service of any additional loan that may be sanctioned. As work of revising budget downward is to be commended [*commenced?*] immediately, it is desirable that the instructions of the Department should be communicated rather promptly.

CROWDER

837.51/567 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, August 25, 1921—6 p.m.

148. For General Crowder.

Your 107, August 20, 10 a. m.

The Department has given careful consideration to the conclusions which you have reached. The Department approves of your conclusions and recommendations and has communicated them to the Gelabert Commission. The Department desires you to inform President Zayas that it considers it highly desirable that steps be taken to carry out the plan suggested by you without delay.

With reference to your 3d conclusion, the Department concurs in your opinion as to the desirability of an immediate revision of the Cuban budget downward to the lowest practicable figure, but has not received sufficient detailed information from you to enable it to point out to the Commission the manner in which the budget can be cut to \$50,000,000 or \$55,000,000 as suggested by you. The Department is informally advised that the Commission will inform the Department August 26th, that the budget cannot be cut lower than \$64,000,000. You are therefore desired to cable immediately any suggestions which you may be able to offer as to further economies which could be effected and thus reduce the budget as projected by the Cuban Commission to the figures indicated by you.

A suggestion has been informally made by the Cuban Mission that if the Department of State would raise no objection at present to a budget of \$64,000,000, the next annual budget, to be approved in the session of the Cuban Congress meeting in November, would be more easily reduced to a figure approximating \$50,000,000. Please advise Department of your opinion.

Secretary Gelabert will advise President Zayas that he considers it desirable that a comprehensive revision of the internal tax laws be undertaken immediately as a condition precedent to the flotation of the exterior loan. He has stated that it would be desirable for President Zayas to appoint a legislative commission to undertake the drafting of a project of such revision, with your assistance. It appears advisable that a revision of the Cuban tariff be undertaken coincident with such tax revision. If such Commission is appointed and if a revision of the tariff is undertaken at the same time, advise Department whether you desire services of tariff expert recommended in Department's 139, August 1, 6 p.m.⁴⁷

HUGHES

⁴⁷ Not printed; see communication of Aug. 1 from the Acting Chief, Division of Latin American Affairs, Department of State, p. 709.

837.51/580

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, August 30, 1921.

[Received September 3.]

DEAR MR. SECRETARY: I have transmitted to President Zayas your 148 of August 25, 6 P.M. in the form attached hereto.

I handed him the paraphrase in a conference yesterday which lasted about two hours. The main topic of the discussion was the budget. I asked him if the special laws of Congress carrying appropriations were included in this project of a budget which he had prepared aggregating \$65,000,000, and he replied that some of them were but not all of them. I asked him if those not included were expressly repealed and he replied, "No", and intimated that in his view the obligations of the Government arising out of those special laws not repealed would be carried forward to next year's budget; that in any event damages resulting to contractors under these special laws arising out of contracts commenced but not completed would have to be carried forward into another budget.

I then told him that I had seen a long list of outstanding contracts of the State, and that the aggregate of considerations in these many contracts ran well into the millions. I asked him if provision had been made for all or any of these contracts in his \$65,000,000 project of a budget. I invited his attention to the fact that under a recent decree issued by him he had rescinded some of these contracts and annulled others, but that in either event damages to contractors were certain to follow and constitute an obligation of the National Treasury. He was unable to tell me to what extent they had been included in his project of a budget. He thought that certain of them had been included and others not.

I then asked him for further conference when we would discuss these special laws and outstanding contracts in connection with his project of a budget, and I pointed out to him that the \$11,000,000 surplus which he claimed to have brought about in his project of a budget would not be surplus if he ignored the obligations against the Government arising out of laws not included in the project and not repealed and out of outstanding contracts undergoing execution. I emphasized the very grave importance of getting a matter so vital to the negotiations now pending between the two countries settled in a definite form.

I invited his attention further to Article 3, Section 11 of the Speyer Loan Statute for \$35,000,000; also to the Loan Statute of 1917⁴⁸ and

⁴⁸ See despatch no. 488, Aug. 8, 1917. from the Minister in Cuba, *Foreign Relations*, 1918, p. 294.

to the pending Exterior Loan project. I pointed out to him that said Section 11 laid down a rule that during the life of the Speyer Loan the objects upon which special taxes were levied to secure that loan should not be made the basis of any new taxes; and that the Interior Loan Statute of 1917 violated this provision in the additional tax laid upon sugar and that the Exterior Loan Statute now pending before Congress would infringe this provision in respect of the additional tax laid upon mineral water etc. He could not explain how this infringement had happened, and said he was ignorant of this provision of the Speyer Loan Statute, but that he would inform himself fully in respect to it before our next conference.

It will not be until the conclusion of the next conference that I can report definitely upon whether the surplus of revenues which Zayas claims to have established ignores the obligations arising out of the special laws and outstanding contracts, and is therefore not a surplus in the amount he claims and quite probably, in view of the large considerations which many of the outstanding contracts carry, is not a surplus at all.

Very respectfully,

E. H. CROWDER

[Enclosure]

*The American Representative on Special Mission in Cuba (Crowder)
to President Zayas*

[HABANA,] August 27, 1921.

DEAR MR. PRESIDENT: I am directed by my Government to communicate to you certain conclusions which have been reached respecting matters now under negotiation between the two countries.

First: That, having regard to the urgent economies that must be practiced as a means of restoring public credit, it is highly desirable to limit the budget of expenses of the Cuban Government for the fiscal year to fifty-five millions.

Second: That the budgetary law should be amended so as to provide that surplus revenues shall be applied each month of the fiscal year to the payment of the floating debt and with the adequate safeguards against said surplus being appropriated to any other purpose through special laws, which we discussed and agreed upon at our last conference.

Third: That in order to provide an adequate surplus for the purposes of extinguishing the floating debt and for paying interest and amortization charges on any new loan that may be established, it is advisable that Article 14 of the pending Exterior Loan Statute be broadened in its scope to include a more comprehensive revision of the internal tax laws and that a legislative commission, with which

I may cooperate in this work, be appointed to undertake this important work.

Fourth: That for the same purposes, it appears advisable that a revision of the Cuban tariff be undertaken coincidentally with such internal tax revision.

Very respectfully,

E. H. CROWDER

837.51/588

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

[Extract]

HABANA, *September 7, 1921.*

[Received September 12.]

MY DEAR MR. SECRETARY: In pursuance of instructions conveyed in Department's Urgent No. 148, August 25, 6 p.m., and suggestions made by Mr. Welles in his letter of August 29th,⁴⁹ I have held several conferences with President Zayas respecting the practicability of revising the budget downward to fifty-five millions; also of a comprehensive revision upward of the internal tax laws, this latter duty to be undertaken by a Mixed Committee of Congress with my coöperation and assistance. I have discussed also with the President the further suggestion of your said Urgent No. 148 that the revision of the Cuban tariff be undertaken coincident with the revision of the internal taxes. . . .

II. *Internal taxes, revision of:* There has already been appointed a House committee on revision of the internal taxes. The task originally set for this committee was piecemeal revision. As the Department knows, I have consistently urged upon the President, since his inauguration, comprehensive revision of the internal taxes. Having made little or no progress, I conferred last week with a Minority Member, and secured the introduction of a motion calling upon President Zayas to report to the Congress the essentials of a comprehensive internal tax revision with desirable reforms in the method of collection. This motion is attached hereto marked "A".⁵⁰ Its introduction has had a most salutary effect in stimulating the interest of the Lower House and of the local press in this much-to-be-desired work.

Yesterday I had a prolonged conference with two members of said House committee. President Zayas and his Secretary, Mr. Cortina,

⁴⁹ Not found in Department files.

⁵⁰ Not printed.

were present. In a few remarks I pointed out the Spanish origin of the present system of internal taxation, the failure of the two United States interventions to give the old Spanish system anything more than piecemeal revision, and then outlined my plan of placing each source of national revenue under analysis and review and selecting those which, with new revenues to be established, ought to carry the burden of increased taxation necessary to meet the existing crisis. The plan was discussed and was finally accepted. The two members of the committee present at the conference stated that the work already done by the House committee would fit in admirably with such a plan. I am promised the results of the committee's work thus far, on Saturday, and I am to meet with these same men again on Monday. I hope that we shall make rather rapid progress in completing this important work.

An interesting exchange of views took place at this conference yesterday as to the maximum of revenue a comprehensive revision could be made to produce. The two Cuban members and Zayas expressed the general view that a conservative estimate of the receipts of the national treasury (inclusive of customs) under the law as it now stands, that is, unamended, would be seventy-two millions; that amended as proposed in the Gelabert revision now pending (article 14 of the Exterior Loan statute) a fair estimate would be seventy-six millions; and that under the comprehensive revision which I had proposed, the total receipts could be made to reach, and perhaps exceed, eighty millions. As to these estimates, all of which are of course inclusive of customs, I can only say that the receipts for June, July and August of the present fiscal year indicate that they are all over-estimates, and I reach the same conclusion by consulting the receipts of the national treasury from all sources in the pre-war years. I am skeptical as to the amounts to be realized, for another reason, namely, that I do not think anyone can foreshadow what the receipts may be, under the abnormal and depressed conditions now prevailing and which will doubtless continue for the indefinite future.

III. *The Budget, revision of:* In all conferences I have held with the President he has stood firm for the proposition that the budget could not be revised downward below sixty-five million dollars without disorganizing the public service. Obviously I could not discuss with him profitably the various Departmental services without first making inspections which would justify the necessity or lack of it for existing personnel, which inspections it would have been inadvisable to make under present conditions. He always stopped with the bare assertion that reduction could not be carried further than the sixty-five million point, and never offered to defend

his proposition by taking up the affairs of the several Departments and explaining the necessity for the retention of the existing personnel. I was never left in any doubt that his argument was a personnel argument and that he was not speaking with particular reference to any other items of the budget.

If the problem of Governmental finance here were one for a Government of American Intervention its solution would not present great difficulty. By putting into effect the economies listed above and others which a closer investigation of the Government's departments would certainly suggest, the budgetary expenses would easily [be] reduced to between 45 and 50 millions, with ample provision for an efficient administration. By a comprehensive revision of the revenue laws, (including the customs tariff) and the honest administration of such laws, the receipts could be easily made to exceed 80 millions. The budgetary surplus of more than 30 millions annually would permit the speedy liquidation of the floating indebtedness and the prosecution of extensive public works which could be made to take care of the existing contractual obligations as a part of a general scheme of internal improvement and thus be made to furnish employment for the large army of unemployed; and there would still be most ample revenues to meet the service of any additional public debt that might be incurred to dispel the industrial crisis and rehabilitate the country.

I fully appreciate that the Department is most anxious to avoid intervention and desires most earnestly to accomplish the needed reforms in Cuba through the administration of President Zayas. The recitation, therefore, of what might be easily accomplished under a Government of American Intervention can serve no useful purpose except to indicate some of the more essential reforms which may properly be exacted of President Zayas. In his present mood (created for him largely by a hungry political following) it is certain that he will continue to obstruct many of the reforms outlined above, unless coerced into a more compliant attitude by pressure from Washington. Eventually Zayas must be told in unmistakable terms that his policy of a 65 million dollar budget, with a continuation of governmental extravagance and fraud, with insufficient resources for present and possible future needs, and with liquidation of the floating and contractual indebtedness protracted over a long period of years (this method of liquidation being objectionable and of doubtful efficacy for the reasons I have already stated) imperils the kind of stable government which we are pledged by treaty stipulation to maintain in Cuba and must yield to a policy of definite and specific reforms which, of course, will be outlined by

the Department only after the gravest deliberation and which ought, I think, under the policy of utilizing Cuban agencies to embody the minimum of essential reforms compatible with maintaining a solvent Government here. I shall not venture suggestions as to what this minimum demand upon the Zayas Administration should be until the Department has had time to consider this report in connection with my prior reports, particularly those of July 31 and August 22, 1921;⁵¹ nor until I have received the report on the conferences at Washington with the Gelabert Commission which Mr. Welles said to me in the concluding paragraph of his letter of August 29th⁵² would be forwarded to me quite promptly.

I am quite ready, when assured by the Department that its deliberate [judgment] is that a firmer attitude must be adopted in our dealings with the Cuban Government to present its most insistent demands whatever they may be. My effort thus far has been to accord the fullest and fairest opportunity to the Cuban Government to bring about these reforms and to make its failure so to do, under all the circumstances, a demonstration of either incapacity or unwillingness and a logical basis and justification for the firmer and more insistent attitude on our part.

The sooner a decision is reached as to our future policy the better it will be for the success of my mission. I realize that the policy to be pursued here will be profoundly influenced by our general Latin American policy and that the Department, out of deference to that policy, may find it necessary to modify the more important recommendations that I have, from time to time, made or which I may make in the future.

Very respectfully,

E. H. CROWDER

837.51/584 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, September 11, 1921—7 p.m.

[Received September 12—3:12 a.m.]

112. Yesterday President Zayas sent me tentative draft of a conference committee report on budget bill, see my 106, August 19th. Bill as amended in conference limits governmental expenditure for the current fiscal year to 65,000,000 and provides that receipts over and above that amount shall be applied exclusively to payment of floating debt except the amount that may be necessary to meet interest and amortization of an additional foreign debt.

⁵¹ Neither printed.

⁵² Not found in Department files.

On the basis of these amendments and the assurance given me and reported in said despatch [*telegram*] 106 that he would veto any special act of Congress which would appropriate the surplus to any other purpose than the extinction the floating debt, I anticipate Zayas will ask at an early date that the Department withdraw its request for veto of the budget bill. See your telegram of August 19 [18], 5 p.m., 146. I gather from this, cable will be read in connection with my despatch of September 7th and that Department is in agreement with the view therein expressed that the stable government which we are obligated to maintain in Cuba under article III of the Platt Amendment is as much imperiled by insolvency as by armed revolution and further that we have the authority and duty to intervene with preventive measures to maintain, as well as with remedial measures to restore, stable government. In this connection see Department's 20, April 21, 1 p.m.,⁵³ paragraph 1, and my 66, April 28, 8 p.m.⁵⁴ In the past we have failed to exercise such authority and duty with respect to Cuban budgetary matters and this inaction is largely responsible for the financial ills of Cuba today. Our policy of noninterference has permitted extravagance and corruption to expand to the point of constituting a danger for the existence of the Republic.

Cuba has today about 50,000,000 of floating indebtedness and a large but as yet undetermined contractual indebtedness for the liquidation of which there are no available funds. The Department is aware of the great difficulty experienced by the Cuban Government in finding funds available for the settlement of its adverse postal money order balance. There is almost daily default on pressing current obligations of the Government, including sanitation, in which we have such a vital interest.

It is believed that inquiry of Speyer and Company and Morgan will reveal delays in meeting the service of the exterior debt which amount practically to defaults. The situation of Cuba is approaching insolvency and can be remedied only by the most rigid economy and the ruthless elimination of extravagance. Failure to adopt such a course will tend to aggravate or at least prolong the existing crisis.

An examination of prior budgets, see exhibits to my report of September 7th,⁵⁵ shows that the cost of administering the Government here has advanced at a rate out of all proportion to the increase in population and service to be rendered.

In the light of these facts I venture to suggest when Zayas requests the Department to withdraw its opposition to the budget bill

⁵³ *Ante*, p. 690.

⁵⁴ *Ante*, p. 692.

⁵⁵ Exhibits not printed.

the answer should be one of firm insistence upon an affirmative showing that the Government cannot be efficiently conducted under the most rigid economies upon lesser amount, giving as reasons the facts recited above.

Unofficial but reliable reports reach me that Zayas is ready to cancel negotiations for any kind of loan, interior or exterior, believing that by that course he will be left free to adopt the kind of budget he desires. For this reason I think the Department should go as far as it feels it can go in basing our insistence for a lower budget primarily upon our treaty obligation to maintain stable financial government in Cuba with only secondary reference to the necessity for a lower budget as a condition precedent to securing our sanction for a loan.

CROWDER

837.51/584 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, September 15, 1921—6 p.m.

152. For General Crowder.

Your 112, September 11, 7 p.m.

On August 27th the Department indicated to the Gelabert Commission that because of the urgent economies that must be practiced as a means of restoring public credit of Cuba, and in consideration of the fact that the Cuban Government is now facing a national deficit of at least \$36,000,000, and is contemplating a further increase of its public debt by an exterior loan of \$50,000,000, while the ordinary revenues, as estimated by the Cuban Government, remain at approximately \$72,000,000, the Department felt that the expenditures of the Cuban Government should not exceed \$55,000,000, and should preferably be limited to \$50,000,000. It was further indicated that in order that the Government of the United States might give helpful cooperation to the Cuban Government in planning a further reduction in its expenditures from the \$64,000,000 budget now projected, to the \$50,000,000 to \$55,000,000 budget, which figure, in the opinion of the Department, expenditures of the Cuban Government for the current fiscal year should not exceed, the Cuban Government should provide the Government of the United States with a statement setting forth the detailed expenditures in the \$64,000,000 projected budget, and that without this detailed statement it was impossible for the Department of State to make any concrete suggestions for reduction. As a constructive suggestion it was stated that the expenditures of the executive departments of Cuba might be reduced by 33½ percent in each instance without

in any way prejudicing the orderly running of such governmental departments.

The Gelabert Commission has not given the Department any indication that the Cuban Government is not to forward this detailed budgetary statement, and the Department's recommendations as outlined above therefore remain unmodified. Until the Department reaches a decision on the important questions raised in your telegram of September 11 and your despatch of September 7, this Government believes that you should continue your efforts to have the Cuban Government accede to the proposal to reduce its budget or else to show definitely that a budget of \$64,000,000 is necessary for it to function in an orderly manner, this budget to be forwarded to the Department by the Cuban Government either through you or the Gelabert Commission.⁵⁶

HUGHES

837.51/597

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, September 24, 1921.

[Received September 30.]

DEAR MR. SECRETARY: I beg to transmit herewith marked exhibit "A" statements of monthly revenues of the Cuban Treasury for the months of May, June, July, August, and from the 1st to 22nd of September inclusive; distinguishing between Custom House receipts and Internal Revenue receipts. The receipts corresponding to the month of May should be disregarded in computing a dependable average for the current fiscal year, for the reason that during that month there were many clearances in the Custom House of goods imported in prior months, which because of dock congestion, had not been cleared through the Custom House. Such conditions ceased, however, with the month of May, and the receipts corresponding to the succeeding months represent the normal flow of revenues into the Treasury.

Will this normal or average flow which is not very far from \$5,400,000 per month, increase or diminish in the succeeding months of the current fiscal year? If the average for succeeding months is not higher, then we shall know that unless there is an effective revision upward of the Internal Revenue laws, the receipts for the current fiscal year will scarcely exceed the expenditures and there will be no budgetary surplus with which to meet an addition to the public

⁵⁶ This last paragraph paraphrased.

debt, and to liquidate floating indebtedness. Zayas' refusal thus far to reduce the budget below \$65,000,000 throws the entire burden of establishing the necessary budgetary surplus upon the pending revision of the Internal Revenue laws, unless there should be an unexpected rise during the ensuing months of the present fiscal year of the Revenue receipts, Custom House and Internal.

President Zayas understands that this is the case, but is making little or no progress with the task of revising upward the Internal Revenue laws of the Republic.

Very respectfully,

E. H. CROWDER

[Enclosure]

*Monthly Revenues of the Cuban Treasury, May 1 to
September 22, 1921*

	Custom House	Internal	Total
May.....	\$3, 913, 642. 30	\$2, 506, 434. 92	\$6, 420, 077. 22
June.....	3, 312, 536. 52	1, 977, 169. 32	5, 289, 705. 84
July.....	3, 083, 944. 74	2, 389, 692. 37	5, 473, 637. 11
August.....	2, 881, 661. 59	2, 833, 481. 55	5, 715, 143. 14
September 1 to 22nd, inclusive.	1, 913, 345. 26	1, 338, 119. 98	3, 251, 465. 24

Taken from official data at the Cuban Treasury Department.
September 24, 1921.

D. CASTILLO, Jr.

837.51/594a : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, September 24, 1921—1 p.m.

155. For General Crowder :

Norman Davis and Dwight W. Morrow, on behalf of J. P. Morgan and Company, have presented to Department memorandum, a summary of which is as follows :

“Cuban Government has been seeking short time loan for \$5,000,000 to meet certain requirements, including outstanding checks. J. P. Morgan and Company are unwilling to consider matter unless such a loan could be made preliminary step in constructive reform in the administration of Cuba's finances. J. P. Morgan and Company would, however, be very glad to consider the matter if making

of such temporary loan, to be later paid off out of the proceeds of a large bond issue, would be helpful in carrying out any of the constructive plans for the relief of Cuba, and, if desired, would be willing to send a partner to Cuba for consultation with you and in cooperation with you to discuss the matter with the Cuban Government. They have felt it possible that this application for a loan from Cuba might afford them the opportunity of cooperating with you in impressing upon the Cuban Government, if the foreign credit of the Government is to be maintained, the necessity of prompt and substantial improvement in the Cuban budget. They add that if you think it advisable for Cuba to have this temporary assistance in order to maintain her credit, pending the adoption of the constructive measures necessary to put Cuba on a stable basis, J. P. Morgan and Company express their willingness to assist, provided they are assured that Cuba will adopt such measures."

The Department feels that if the \$5,000,000 loan is to be made the occasion on the part of the bankers of requiring as a condition precedent a reduction in the budget and revision of the tax laws, such as would be required for underwriting a large bond issue, and is not merely for the purpose of affording temporary relief for the immediate pressing needs of the Cuban Government, the negotiations of the bankers might well be of assistance to you. However, the Department is submitting the suggestions of J. P. Morgan and Company to you in order to obtain your views in the premises and will be guided by your recommendations.

HUGHES

837.51/594 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, September 25, 1921—noon.

[Received 6:37 p.m.]

119. Reference your number 155. Receipts of National Treasury from all sources since May indicate that total receipts for the current fiscal year under present laws may not exceed 66,000,000. If Zayas adheres [to] his 65,000,000 budget, as I think he will, the burden of interest and amortization of additional loan as well as the liquidation of the large floating debt must fall almost exclusively, and in any event mainly, upon revenue revision. I think that financial aid can be so conditioned as to facilitate and expedite revenue revision but I doubt if it can be conditioned on budgetary reduction—see my telegram of September 11, 7 p.m., 112, concluding paragraph. Nevertheless I strongly advise and recommend that J. P. Morgan and Company send partner here for conference with me and later with President Zayas to undertake the task of convincing the Cuban Gov-

ernment of the exact nature of her financial problem, the character of financial aid required, and the condition upon which it can be obtained. He should be a man competent to advise upon essentials of loan contract and loan statute from bankers' point of view and should come as promptly as possible.

CROWDER

837.51/594 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, September 28, 1921—5 p.m.

158. For General Crowder.

Your 119, September 25, noon.

Dwight Morrow, partner of J. P. Morgan & Company, accompanied by Norman Davis, will leave Washington for Havana on September 29, to confer with you and later with the Cuban Government.

HUGHES

837.51/604a : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

[Paraphrase]

WASHINGTON, September 30, 1921—2 p.m.

161. For General Crowder :

In view of the long delay on the part of the Government of Cuba in taking any decisive steps toward readjusting the national finances, first, by a policy of the most rigid retrenchment, and second, by the passage of legislation to provide for increased revenues, and in view of the consequent serious economic situation of Cuba, the Department desires that you may communicate such of the following considerations to the President as you may deem advisable :

The Department understands that the President will be authorized to expend up to \$65,000,000 by budgetary legislation shortly to be passed by the Cuban Congress, the framing of the budget to be undertaken by the President; and that all governmental revenues in excess of the expenditures incurred by the Executive will be appropriated by the same legislation exclusively to the extinguishing of the national deficit, except whatever part of such excess as the Congress may appropriate to meet the service of any additional public debt. The President has been advised through you that the Department will not object to his approval of such legislation, but with the understanding that he will give you in writing a definite commitment (for

the confidential use of this Government, if he desires) either that he will not frame a budget to exceed \$50,000,000 or that he will satisfy the Department beyond question that the Cuban Government cannot operate efficiently on less than whatever total of appropriations he may determine upon up to \$65,000,000.

You estimate the Cuban revenues for the current year, the Department notes, at \$66,000,000; from other sources the Department is informed that they may not exceed \$50,000,000. In that event, the Cuban Government, without surplus revenues, would be unable to extinguish its deficit or to meet the service of any additional loans it may desire to float. For the attainment of both these objects to be possible, the Cuban Government must create additional revenues, and it is the opinion of this Government that only by a comprehensive revision of the internal taxation laws of Cuba can they be created. It appears necessary once more to emphasize the fact that the Government of the United States cannot authorize the flotation of any additional loan by the Cuban Government until it is assured that, in the manner above indicated, the Cuban Government will have sufficient surplus revenues to extinguish its national deficit and to meet the service of any increase in the public debt through a material reduction of the budget now projected and a comprehensive revision of the internal revenue system.

As you have been advised, the Department understands that J. P. Morgan & Co. will discuss with the Cuban Government the possibility of a loan of \$5,000,000 from that firm to Cuba in order that the most pressing obligations of the Government be met.

It appears that the Cuban Government considers that the consent of the Government of the United States need not be obtained for this increase in the public debt of Cuba if it uses as collateral for such a loan the internal bonds still held in the Cuban Treasury. If President Zayas is willing to make the commitments referred to above so that this loan may therefore be considered as an essential portion of the Cuban Government's program for revision of its finances along lines satisfactory to the Department, the latter would not necessarily raise any objection to this increase in Cuba's public debt. If, however, the Government of Cuba should refuse to give this Government such assurances, the Department might interpose an objection to this loan on the ground that the internal bonds the Government of Cuba intends to use as collateral form a portion of an issue that the United States authorized at a time when Cuba's revenues were sufficient to meet the service of this public debt, and that as the situation has now changed, the Department is not yet advised that Cuba's ordinary revenues suffice to meet the service of this additional debt.

You may advise President Zayas that the Department earnestly hopes he will take action along the lines indicated above in order that this Government may cooperate helpfully with the Cuban Government in its endeavor to solve the very grave problems which confront it.

HUGHES

811.71637/8 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, September 30, 1921—6 p.m.

162. For General Crowder:

Department's No. 161, September 30, 2 p.m., and letter September 21.⁵⁸

Postmaster General informs Department that indebtedness of Cuban Government to Post Office Department on account of postal money orders is now approximately \$500,000. Postmaster General states that it is extremely embarrassing for the postal money order system of the United States to finance that of Cuba in a sum aggregating half a million dollars; that the money order fund is greatly embarrassed by the non-payment of this amount rightfully due under the terms of the Convention.

In view of the above, and of the positive statement of President Zayas to you⁵⁹ that the amount due would be paid in fifteen days from August 25th, the Department desires that in case the loan of \$5,000,000 is negotiated in accordance with the Department's telegram of September 30, 2 p.m., and in case the amount due is not sooner paid, it be specifically provided in the loan contract that this sum be paid out of the proceeds of the loan.

HUGHES

837.51/610 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, October 9, 1921—6 p.m.

[Received October 10—1:56 a.m.]

123. J. P. Morgan and Company yesterday made following propositions to Cuban Government.

1st. To purchase immediately \$5,000,000 one year 7 percent notes of Cuban Government at 99½ guaranteed by pledge of 7,000,000 internal and other bonds. Proceeds to be applied as follows: (a) payment of amounts due United States on postal order balances;

⁵⁸ Latter not printed.

⁵⁹ Reported in telegram no. 108, Aug. 25, from the Representative on Special Mission in Cuba; not printed.

(*b*) allocation of amounts necessary to pay interest and sinking fund on all exterior debts for next six months; (*c*) balance for payment outstanding checks, estimated about 1,000,000 and other governmental purposes.

2d. This loan shall be part of more comprehensive measures which shall include: (*a*) budget for present year shall be 59,000,000 plus additional appropriation of 6,000,000 for contingencies; (*b*) budget for 1922-1923 shall be 55,000,000 plus additional appropriation of 5,000,000 for contingencies; (*c*) revision of customs and revenue laws to provide income of 10,000,000 in excess of Government expenditures; (*d*) loan of \$50,000,000 described below.

3d. This \$50,000,000 loan shall be contracted for following purposes: (*a*) repayment of \$5,000,000 loan; (*b*) liquidation of floating debt; (*c*) balance for public works.

[4th?] This loan shall be repaid: \$20,000,000 in 1, 2 and 3 years and \$30,000,000 in 20 to 30 years. Guaranties and other conditions to be arranged in subsequent negotiations. There is nothing in the proposition which would oblige Cuban Government to make this loan necessarily with Morgan and Company.

Zayas in answer to Morgan approves proposition in general, except refrains from definitely committing himself: (*a*) to budget reductions indicated above; (*b*) to revision of customs and revenue laws saying he will try to accomplish it but cannot answer for action of Congress, and (*c*) to repayment of \$20,000,000 of \$50,000,000 loan in brief periods of 1, 2 and 3 years, which both bankers and myself regard as a means of enforcing rigid economy.

Zayas has transmitted whole of this correspondence to me with letter in which he failed to give the definite commitment to budgetary reduction mentioned in your number 161, September 30, 1 [2] p.m., paragraph two, respecting budget for the year for current fiscal year and makes no commitments with regard to future budgets. Taking correspondence as a whole Zayas is not thereby committed to that constructive financial program which would justify the Department in sanctioning the loan. Have appointment with him Tuesday when I will discuss further the essentials of such a program and endeavor to secure from him more definite commitments.

Morgan bankers show every desire to conform to Department's policy and have done effective work. Weinberger of Blair and Company who arrived Friday and Bollard of Dillon, Read and Company, who arrived yesterday, had long conferences with me today and will see Zayas soon regarding loan.

CROWDER

837.51/615

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, October 11, 1921.

[Received October 15.]

DEAR MR. SECRETARY: Negotiations between President Zayas and the Morgan group of bankers proceeded rather satisfactorily for a week and then came to a kind of *impasse*, due to the failure of Zayas to commit himself in a definite way to a constructive financial program. An exchange of correspondence between them having demonstrated this situation, I sent this morning to President Zayas the enclosed letter. I am to see Zayas this afternoon. If he responds to the letter I have written him in a satisfactory way, and if the Department approves the commitments he may make, the temporary loan for \$5,000,000 can be speedily consummated. This will give us a breathing spell and we may proceed with more thoroughness in the matter of the general loan for \$50,000,000.

Personally I do not see how Zayas can delay much further the necessary commitments. The alternative, and I think he begins to see it, is that his Administration must fall, for no nation can live with daily default on its most pressing current obligations and ultimate default on the service of its Exterior debt. I am convinced that Cuba has but the one chance which I have attempted to give her to keep out of the list of bankrupt nations.

If Zayas should respond with the proper constructive financial program, and the temporary loan is made, we shall have taken a definite step forward in the direction of the general loan and the effect upon public confidence ought to be very marked.

Party spirit is running pretty high in Cuba incident to the reorganization of political parties. The Department will not forget that the general elections for the renewal of the Lower House in its one half portion take place next year coincidentally with our own; but the electoral period here opens in the month of April 1922, when Cuba will be plunged into the throes of another general election. The fact has doubtless claimed the attention of the Department and plans for dealing with the political situation next year are being formulated.

Very respectfully,

E. H. CROWDER

[Enclosure]

*The Representative on Special Mission in Cuba (Crowder) to
President Zayas*

HABANA, October 10, 1921.

DEAR MR. PRESIDENT: Under date of October 3rd I transmitted to Your Excellency cabled instructions which I had received from my Government⁶⁰ respecting pending negotiations. On October 4th and again on October 8th I received from Your Excellency partial replies, but there remain many parts of said instructions which concern the pending loan negotiations, and in respect of which a decision must be reached before I shall be able to submit final recommendations to my Government as to the terms and conditions upon which any loan may receive its sanction under Article Two of the Platt Amendment.

Latterly we have discussed the advisability of a preliminary or advance loan of Five Million (\$5,000,000) Dollars on the security of certain Bonds in the possession of the Cuban Government, to be followed by and repaid from a larger loan of Fifty Million (\$50,000,000) Dollars. I have already informed Your Excellency that my Government would interpose no objection to this preliminary or advance loan if it is made as an integral part of a larger loan and upon terms and conditions which would enable my Government to regard it as an essential part of a constructive financial program, adequate to meet the present crisis of actual industrial and threatened governmental insolvency.

All along the negotiations between our two Governments have been obstructed by failure to agree upon what constitutes a constructive financial program for the Government of Cuba in the present crisis. I am convinced that little progress will be made in formulating such a program until there is substantial agreement in defining Cuba's present financial crisis. I shall therefore address myself first to the task of giving the best definition I can of the present crisis, and will then attempt to indicate what, in my judgment, are the essential steps that must be taken to establish the solvency of the nation on firm grounds.

Preliminarily let me observe that on May 20th of this year, when Your Excellency assumed office, you were confronted with an industrial and financial crisis unprecedented in the history of Cuba. No previous incoming Chief Executive had been faced with such a perilous situation. The prosperity (partly artificial) which marked the years of the World War and the years immediately

⁶⁰ In telegram no. 161, Sept. 30, p. 735.

following was accompanied, as is not unusual in such cases, by personal and governmental extravagances. With the ending of the artificial war demands, came an industrial collapse affecting all classes of business in Cuba and revealing a general demoralization, both economic and moral, evidenced by the following facts:

Fifteen Banks which in normal times had transacted more than fifty percent of the banking business of Cuba, are at the present time undergoing costly liquidation. The stimulus of buying power in the nation, due to the very large profits made in the last few years, has been followed by a rapid decline in prices. Merchants who have bought or ordered large stocks of goods are able to dispose of them, if at all, only by slow degrees and at falling prices. The basic industry of the Island—the production of sugar, has been seriously crippled by the collapse of the world market for Sugar, due in large part to the present over-production. While no one can foretell when natural conditions will restore the sugar market to its normal pre-war position, those most competent to predict on such subject, feel that with the large unsold supply of this year's crop in Cuba, a healthy condition of the sugar market can hardly be reached until the world's production of sugar has become readjusted to the world's consumption under the new conditions.

Reorganization of the Banks now undergoing liquidation is rendered very difficult, not only by existing instability and lack of confidence, but also by lack of legal safeguards. It cannot be denied that certain of these Banks which might command the necessary financial aid may not reorganize because of the absence of sane banking laws in Cuba. The enactment of such a law is one of the country's most urgent needs, and yet nothing has been accomplished as yet along these lines. So too the loss incurred by many insolvent mercantile establishments has increased because of the archaic stipulations in the laws of Cuba regulating such cases, and the failure thus far to enact a bankruptcy and receivership statute adequate to meet the existing crisis.

The loss and confusion resulting from the necessary economic readjustment in Cuba may be minimized by constructive laws and governmental policies. When it is realized that industrial Cuba on her products and otherwise is still in debt to the outside world for huge amounts, estimated by some at Two Hundred Million (\$200,000,000) Dollars, the danger of the situation and the necessity for a reestablishment of confidence, stability and economic order is most apparent.

The critical condition in which you found the whole industrial life of Cuba would have presented governmental problems of the first importance. The difficulty of solving these problems, however,

was intensified by the position in which the Public Treasury was turned over to you by the prior Administration. Without attempting to set out all of the vital problems which have presented themselves to you in the past four months, I may mention some of them. As I view it, the crisis has the following fixed and definite elements about which we ought not to be in disagreement:

First: The Government had a public debt (exterior and interior) aggregating about Eighty Five Million (\$85,000,000) Dollars to meet the annual service of which the laws required you to place in the fixed budget an annual charge of approximately Ten Million (\$10,000,000) Dollars.

Second: In addition to the funded debt above mentioned, the Government had a floating debt, the exact amount of which has not yet been ascertained, but which is roughly estimated at Forty Six Million (\$46,000,000) Dollars,—a sum almost equal to the total exterior funded debt of the Government of Cuba, which had been accumulating in the past twenty years. I am aware that the exact amount of this floating debt is still uncertain, but from the information which you have given me, the difference in the various statements of the amount of the debt is not large enough to reduce the gravity of the situation.

Third: A large portion of the floating debt aforesaid was in the shape of outstanding checks, estimated to be between \$6,000,000 and \$7,000,000 in amount. The failure of the Banco Nacional, in which the greater portion of the Government Funds were deposited, left the Government without adequate resources to meet these outstanding checks. The actual currency reserve in the Public Treasury, I have been advised, amounted to about Five Million (\$5,000,000) Dollars at the time you took office, and that this reserve has steadily been absorbed in payments imperatively required to be made, until today it stands at One Million Five Hundred Thousand (\$1,500,000) Dollars.

Fourth: The receipts of the Government during the last fiscal year, especially from Customs Revenue, were abnormally large due to high prices of imported goods, and possibly also to excessive importations. At the time Your Excellency assumed office, however, these abnormal receipts were rapidly falling off and you were faced with the difficult problem of keeping your Government functioning in the face of a staggering floating debt, with decreasing monthly revenues insufficient to meet current monthly expenditures.

Fifth: While Your Excellency has been able to make substantial reductions in the Governmental expenditures, notably by the suspension of payments under the Gratification Law and the repeal of the Minimum Wage Law, nevertheless your reductions in expenditure have not kept pace with the reduction in revenue. The fact, therefore, remains that while you have been able to pay off many of the outstanding checks of your predecessor Government, the financial position of the Government today is not as good as on the day you took office, because each month you have incurred fresh current obligations in excess of the current receipts of that month.

I might carry the enumeration further to include many other fixed and definite elements of the present crisis without incorporating any disputed fact. I feel that I need not do so, as I am sure Your Excellency will concede the extreme gravity of the situation and that the peril to the Republic is imminent. Certainly it requires no argument to demonstrate how extremely dangerous it is to allow the Government currency reserve to fall below the One Million Five Hundred Thousand (\$1,500,000) Dollars at which I understand it now stands; and that at that low figure a default on the public funded debt, with all the evil consequences that such a default would entail to the credit of the Republic, is seriously threatening. Confirming me in this view are the advices which reach me, seemingly reliable, that while checks have been given to all those who have presented coupons representing interest on the debt, some of those checks have not been paid. If this be true, there is, technically speaking, a default on the public funded debt today. Moreover we have to consider that because of the inadequacy of funds with which to make payment for current public services, large numbers of Government employees in essential services, such as schools, hospitals, street-cleaning forces, and the Police and Army, are behind in their pay. This would be a most serious thing for any Government at any time. It carries a peculiar element of danger to Cuba today because of the suffering of the people, due to the loss of their savings through bank failure and to the unemployment problem daily becoming more acute.

I am sure I need not further emphasize to Your Excellency the very great peril in the present situation. No Government can be certain that it can maintain an adequate protection of "life, property and individual liberty," or an adequate prevention against the "recurrence of epidemic and infectious diseases," while it is living from day to day in such an unstable condition as the Government of Cuba has been in during the past three months. It is pertinent here to observe that these quoted phrases from Articles III and V of the treaty between the Government of Cuba and the Government of the United States of July 2, 1904 (incorporated in the Constitution of Cuba) sufficiently establishes the fact that this discussion is directly relevant to matters of treaty stipulation and to the adequate fulfillment of treaty obligations.

A temporary remedy for this situation may be found in a temporary loan or loans, but what I have said makes it very plain that a pre-requisite for such loans is the making of a constructive program leading to a firm establishment of the public credit. The only permanent remedy, of course, is a further reduction of Governmental expenses or an increase in the Governmental Revenue, or both a de-

crease in expense and an increase in revenue. In considering a revision of the revenue upward, Your Excellency of course will have in mind the limitations imposed by Cuba's depressed industrial conditions and that new revenue laws may provide revenue on paper that will not be realized in actual collections. People cannot pay what they have not got.

In the imposition of taxes under existing conditions it is vital to avoid destroying the source from which the taxes are derived, and for such a complicated undertaking it is most important that changes be made upon the recommendations of experts after an exhaustive study of the question. Cuba is the only country within my knowledge which undertakes tax revision without the most extensive reliance upon such expert assistance.

I am sure that I need not call your Excellency's attention to the fact that a temporary loan of Five Million (\$5,000,000) Dollars which it is now proposed to secure from J. P. Morgan & Company could only give temporary relief, and would be therefore futile unless it is made a step towards, and a part of, more comprehensive measures contemplated in order to place Your Excellency's Government on a stable financial basis, and which makes it most incumbent upon Your Excellency's Government to expedite.

This brings us logically to a consideration of the all important question,—What is to be Cuba's constructive financial program?

Stated in other words, what are the steps necessary to be taken to establish Cuba's public credit on that firm basis which will make it abundantly evident that the ordinary revenues are and will remain adequate, after defraying the current expenses of the Government, to pay interest and sinking fund charges on the public debt, including any addition thereto that may be negotiated; for until the revenues are made so adequate, the United States Government is without the authority to sanction, and the Government of Cuba without the authority to contract, any new loan? The negotiations now pending should furnish the answer to this question.

My Government in its most recent cable instructions has suggested for the consideration of Your Excellency one of the steps which ought to be taken, and information as to which in all necessary detail will be found in my communication of October 3rd. It is one of the points not discussed in the two partial replies which I have received to that communication. In effect I was instructed to say that the Department of State would not necessarily interpose any objection to the contraction of a temporary loan for Five Million (\$5,000,000) Dollars as a part of a permanent loan and to be reimbursed from it, if Your Excellency would give a definite commitment in writing (for the confidential use of the United States

Government if Your Excellency so desires) that the budget to be framed by you, under the authority of the budgetary bill now in conference, would not exceed Fifty Million (\$50,000,000) Dollars; or else that Your Excellency would satisfy the Department conclusively that the Government of Cuba cannot be operated efficiently on less than whatever total of appropriation up to Sixty Five Million (\$65,000,000) Dollars that Your Excellency may determine upon.

Of course Your Excellency understands and will give due consideration to the fact that this superior limit of Sixty Five Million (\$65,000,000) [Dollars] was suggested at a time when it was contemplated that the service of the existing public debt should be provided for out of revenues of the State and within this limit. I note in the correspondence with J. P. Morgan & Company with which you have furnished me, there is a proposition to divert a part of the funds derived from the \$5,000,000 temporary loan, to liquidate the interest and sinking fund payments on all the present exterior debt of the Government for a six months' period following the date of the loan. The amount so diverted would, of course, have to be subtracted from said superior limit of Sixty Five Million (\$65,000,000) Dollars.

We have not yet discussed this step by the State Department. In the form in which it is submitted, it seems to me that it should give Your Excellency neither difficulty nor embarrassment. In plain effect the Department assumes that a Fifty Million (\$50,000,000) dollar budget will be necessary for the current year. Having made this assumption the Department asks that you demonstrate conclusively to its satisfaction and as a condition precedent to obtaining its sanction for a further loan, the necessity for a larger sum, not exceeding the superior limit above named. Understood in this sense the demonstration is one which I think Your Excellency has expressed willingness to make in our prior conferences.

The determination of what the public budget should be for the current year is somewhat complicated by the fact that three months, or one quarter of that year, has already elapsed, with expenditures, as I am advised, in excess of one quarter of the budget of even of Sixty Five Million (\$65,000,000) Dollars. I am not so rigidly bound by my instructions that I could not consider the reimbursement of the budget for the current year in the amount you have expended out of receipts of that quarter to meet obligations incurred in the prior fiscal year, but of course in determining the amount to be reimbursed there would have to be deducted any increase in the floating indebtedness which has resulted from failing to pay obligations corresponding to the period from July 1 to September 30.

It is just as important to establish limitations upon the budget for succeeding fiscal years as for the current fiscal year, and Cuba's constructive program cannot, in my judgment, omit making proper provisions in this regard. What should be established as a superior limit for the budget of 1922-23 can be determined only after exhaustive investigation and study. It may well be that the proposition to fix it at Fifty Five Million (\$55,000,000) Dollars with an item of Five Million (\$5,000,000) Dollars for unforeseen expenses incurred during that year, may be found a reasonable one.

After all, what we are trying to obtain is a safe margin of receipts over expenditures. It occurs to me to suggest to Your Excellency that it might be well to abandon the plan of a fixed maximum and to proceed, if practicable, along the lines of so limiting expenditures that they shall always bear a certain relation to the receipts. For example, conservative estimates of the receipts for the current year under the laws as they now stand—that is without revision—are that the receipts will not exceed Sixty Five Million (\$65,000,000) Dollars, and possibly, even probably, may fall below that amount. In such an event you would of course have no margin with which to secure an additional loan, and you would be absolutely forced, in order to avoid default on the service of the public debt, to reduce expenditures below the amount fixed in the budget. Even with the new proposed tax revision, conservative estimates are that there will be a failure to collect sufficient revenue to establish a safe margin. My instructions, I repeat, are not of such a rigid character as to prevent me from discussing this new way of fixing the limit on expenses with reference to the receipts and to discuss with Your Excellency the margin of Ten Million (\$10,000,000) Dollars proposed by Morgan & Company.

Additional assurance making it obvious to my Government that the proposed revision of the Internal Revenues is a dependable one, would be that it was predicated upon the prudent calculations and dependable estimates of an adequate force of competent experts. I do not think it would be unreasonable to ask, in view of the necessity we are under of presenting the result of the revision to the State Department at Washington, as security for the loan, to ask that there be associated with the expert force engaged in this work, a competent American expert in the same field.

What I have said in regard to method of revision of Internal Taxes applies equally to revision of the Customs Tariff, except that in the latter revision the services of experts are absolutely indispensable. I cannot too strongly stress the necessity for assurance that this work of Customs Tariff Revision will be entered upon immediately, and be prosecuted as expeditiously as possible. My

judgment, as at present advised, is that a thorough revision of the tariff can be made to produce a larger increment of revenues to the National Treasury than can be produced from the revision of the internal revenue laws.

A still further assurance which it seems to me competent and desirable to be made is that at an early date Your Excellency will recommend to the Congress of Cuba and earnestly support before the Legislative Body the repeal of the law of August 9, 1919, fixing the salaries of Municipal Judges, thereby saving an item of expense in the fixed budget of about One Million Two Hundred Thousand (\$1,200,000) Dollars.

It seems to me reasonable also to suggest to Your Excellency that you have within your authority a ready and most effective means of reinforcing the revenues in the face of their demonstrated or threatened insufficiency to produce the budgetary balance which we all know to be indispensable to the maintenance of the public credit. I refer to the lottery which does not figure in the National budget. A close study of the laws pertaining to the lottery leaves me without any doubt of your authority to fix the maximum price at which tickets shall be sold. If that price were advanced to \$25.00 per ticket, there would, of course, be a loss of income to the monopolists who sell the tickets and to the holders of *colecturías*, but there would be a corresponding gain to the Treasury of an amount which I have heard estimated by the most competent people at from three to four million dollars. An assurance that this authority and discretion, which I feel the Executive has under existing laws, would be exercised to keep the nation solvent, would be but a fulfillment of Your Excellency's statement made in the letter of April 30th of the current year and which in relevant portion reads as follows:—

“Among the revenues of the Government exists that produced by the National Lottery, which, in my judgment should not disappear, but should be the object of modification, as regards the sale of the tickets, so as to avoid having their legal price altered, *and having this transaction be the means of undue profit to persons mediating between the Government and the venders.*” (Italics my own)

A prominent place in the constructive financial program of Cuba will necessarily be given to a speedy enactment of a sane banking law under which banks may reorganize and existing banks be conducted under that wise public regulation which will safeguard the interests of the public and destroy that competitive private banking which has been such a prominent factor in bringing about the present industrial crisis.

Neither can we ignore assurances that the pending Exterior Loan Statute will be revised in such a way as to delegate to Your Excel-

lency the authority to fix all terms and conditions in the loan contract and also to safeguard in the proper way the application of the proceeds of the loan to certain defined purposes.

These are some of the steps of an adequate constructive program which will permit the loan negotiations to proceed. Further discussion will undoubtedly suggest modifications of them and new conditions. As in the past, I stand ready to work unremittingly on this task, utilizing to the full all the opportunity extended with a view to expediting the action of my Government on all matters within its jurisdiction to consider and determine.

While in this communication I have not been able to conceal the anxiety I feel on account of the present crisis, I am clearly of the opinion that adequate remedial measures are within the grasp of Cuba's Statesmen and that from this time on rapid progress will be made in the reconstructive policies which are the subject matter of this communication.

Very respectfully,

[E. H. CROWDER]

837.51/613 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, October 13, 1921—1 p.m.

[Received 10:35 p.m.]

124. Morgan and Company's representatives returning to-morrow via Key West with the understanding, which Zayas confirms, that the correspondence between them transmitted with my despatch dated October 10th⁶¹ constitutes an agreement to make an agreement for the advance loan of \$5,000,000, subject to the conditions named in said correspondence, but without prejudice to the legal right of the Cuban Government to contract with any other bank for the \$50,000,000 loan.

Bollard of Dillon, Reade and Company who arrived after the Morgan negotiations had commenced informed me this morning that Zayas told him in an interview yesterday that he considered himself under obligations, if conditions named are fulfilled, to contract with Morgan for the \$5,000,000 loan. Bollard complains that this will give Morgan and Company a great practical advantage in securing the \$50,000,000 loan. This will undoubtedly be the position of Speyer and Company who on October 10th filed with

⁶¹ Not printed.

Zayas through Steinhart an offer to make the advance loan "upon terms and conditions more advantageous to the Republic of Cuba than those offered by any other responsible banker or banker's aid to financial corporation." Weinberger of Blair and Company has made no protest here but it is possible that all these banks may protest in Washington.

Public bidding is not required by either the advance loan statute which has passed the Camara and is pending in the Senate, nor by the exterior loan statute for \$50,000,000 which is pending in the Camara but has not passed either House though both statutes permit public bidding. The raising of this question now will greatly obstruct pending loan negotiations which are proceeding rather favorably.

With my despatch of October 11th⁶² which should reach you tomorrow morning I forwarded a copy of my latest letter to President Zayas. My interview with him yesterday evening leads me to believe that he will give all or nearly all of the commitments in writing for the confidential use of our Government which are listed in said letter and some additional ones which I felt at liberty to suggest. I shall cable his commitments when received. It will then be incumbent upon the Department to advise me if a contract for the advance loan may be closed and the program for the permanent loan of 50,000,000 may be proceeded with.

CROWDER

837.51/621

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, October 20, 1921.

[Received October 24.]

DEAR MR. SECRETARY: Under date of October 17th, I transmitted a translation of President Zayas' reply to my letter of October 10th, remarking in the letter of transmittal⁶³ that I was retaining the Spanish original here but that a literal copy of the same would be forwarded in due course.

Having regard to the confidential character of this letter and its great importance, I have decided to send the original to the Department and retain here the copy.

Very respectfully,

E. H. CROWDER

⁶² *Ante*, p. 739.

⁶³ Not printed.

[Enclosure—Translation ^{63a}]

*President Zayas to the Representative on Special Mission in Cuba
(Crowder)*

HABANA, October 16, 1921.

MY DEAR GENERAL: I wish to acknowledge the receipt of your letter of the 10th instant ⁶⁴ in which you discuss the pending negotiations for a loan and the securities on which it must rest, including therein a revision of the taxes. Quite properly you point to the fact that my administration, without being responsible for the present financial crisis, has to bear all the responsibility of finding a way out. I note with great satisfaction the manner in which you define that crisis and I generally agree with what you say in that respect. I also agree with what I infer to be your point of view, namely, that a loan to help out the national treasury is one of the applicable remedies, and that a previous condition for the approval of the Government of the United States of a loan in accordance with Article 2 of the Treaty of July 2, 1904,⁶⁵ and of the appendix to the constitution of Cuba, would be a definitive program of financial reconstruction affording adequate security both for the present and the future; that it will be easy to meet within the ordinary receipts and after paying the current expenses of the Government, the requirements of the public debt, and include the additional expense that may be authorized.

I take note with great pleasure of that part of your note in which you say, without any necessity for your doing so, that I must feel assured of your Government's desire to lend to the Government of Cuba its aid and cooperation in undertaking to solve the very grave problems that are before it.

I have given careful consideration to the suggestions made by you in your letter of the 10th now before me, and in oral conferences, and I have prepared, as the outcome of my study, a statement of the financial constructive program that I have adopted, and communicate it to you for the confidential information of your Government:

1. The immediate flotation of a temporary loan of \$5,000,000, being part of a permanent loan of \$50,000,000, out of which the first named will be refunded. The said temporary loan will be applied to meeting the most urgent liabilities of my Government, including the balance of account of post office orders and the cost for a half-year, beginning with the date of the contract of that temporary loan of the service of the consolidated foreign debt.

^{63a} File translation revised.

⁶⁴ *Ante*, p. 740.

⁶⁵ Treaty signed May 22, 1903, and proclaimed July 2, 1904; *Foreign Relations*, 1904, p. 243.

2. With reference to the budget of the current year, you communicated to me your Government's suggestions, namely:

"A definitive declaration in writing (for the confidential use of this Government—the Government of the United States—if he—I—so desire) that the budget that he is about to draw up, will not exceed \$50,000,000, or otherwise I shall bring conclusive evidence to the Department that the Government of Cuba cannot be operated efficiently with less than an appropriation for that and all other purposes within the sum of \$65,000,000 that he—I—may determine."

With respect to that suggestion from your Government, you drew my attention to the fact that the Cuban Government, after receiving it, was considering a temporary loan which it would apply in part to the requirements of the foreign debt covering a period of six months following the date of the contract and other liabilities of the present fiscal year, which it is proper to include in the budget that is to be prepared in accordance with the pending legislative measures, and you suggested that no matter what amount of the temporary loan, and of the permanent loan to follow, was applied to the foreign debt and to the payment of budgetary expenditures of the year, it was to be deducted from the maximum of \$65,000,000 mentioned by your Government, the difference standing as the limit of the budget for the current year; or in other words, all sums taken from the loans to meet the expenses of the budget were to be deducted from the \$65,000,000.

I concur in your Government's suggestion and in your remarks, and will immediately give my attention to preparing those data, taking the \$50,000,000 as the minimum budget for the current fiscal year, communicating them to your Government, and offering conclusive and satisfactory proofs that amounts exceeding that sum are, in my opinion, indispensable for an efficient conduct of the Government, bringing down to the lowest possible limit by means of retrenchments that it is possible to make in the public service the total of expenditures for the current year, while always keeping it within the extreme limit above stated.

3. Before the 15th day of November of this year I shall lay before the Congress of Cuba the budget for the fiscal year 1922-23, and will limit the appropriations for expenditures to \$55,000,000, adding thereto a sum of not more than \$5,000,000 to meet unforeseen Government expenditures, and deducting from the said extreme limit of \$55,000,000 whatever sum is taken from the loans and applied to expenditures of the budget.

4. As for the budgets of the following years of my Administration, I intend to take the course mapped out in Sections 2 and 3,

and hope to draw up for those years lower budgets that shall not exceed the \$50,000,000, and will not exceed the maximum stated in the 3rd Section except to meet urgent necessities, and when shown that the receipts are sufficient for a larger expenditure. A feasible way of fixing that highest limit would be to consider it necessary to have a reserve of \$10,000,000, more or less, as suggested by bankers with whom I have conferred, as the proper thing for the solvency of the nation, which reserve could be utilized in unforeseen emergencies of the national life, and in reducing the public debt, preferably the domestic debt of 1905.

5. The constitution of Cuba is interpreted to mean that it is admitted that many of the appropriations are authorizations to pay up to certain amounts, but not orders to disburse the money. This is true, particularly with regard to expenses for representation and material. I am, therefore, empowered to reduce expenses, no matter what amount is appropriated.

If, on account of the falling off of the receipts counted on for the year, it should become likely that they will not suffice to meet the necessities of the public debt after defraying the appropriated expenses of the Government, I shall not hesitate in cutting down the expenditures even though the efficient action of the Government be injured thereby, except in the Health Department, which I shall keep fully organized, so that I may be assured of the prompt payment of interest on and amortization of the public debt. This is the course I propose to follow with regard to appropriations during my Administration, keeping up a margin of receipts over expenditures, and preventing, through my veto, the disposal of funds by a special law which would give cause to fear difficulties for the Government of Cuba in meeting the requirements of the public debt.

6. I have power to adopt another effective means of checking a possible falling off of the monthly receipts. I have in mind the increase that could be gathered in by the treasury by enhancing the proceeds of the lottery. The law confers upon me the power to raise the price of the tickets, thus increasing the receipts of the treasury, and I shall exercise that power if the receipts should fall so low as no longer to meet the expenses of the Government and of the public debts.

7. I have instituted, and will expedite a revision of the internal taxes, examining those that are in existence, and considering the possibility of increasing their proceeds, and of creating new taxes for the purpose of attaining through that revision and the revision of the customs duties to which I shall refer the reserve or surplus of \$10,000,000, referred to in Section 4.

Inasmuch as that revision of taxes is mainly the work of experts, and inasmuch as it is to constitute part of the security for the new loan, I shall ask, by way of cooperating with the Government, for the services of a committee of experts to which I will call an American, if expedient.

8. I have also asked Congress to appoint a Mixed Commission to study a revision of the tariffs or customs duties to decide without delay upon the proper reforms, and although the appointment has not yet been made, some work has already been done by the Committee on Tariffs, of the Chamber of Representatives. In this matter intervention of experts cannot be omitted, and inasmuch as the mercantile relations of Cuba with the United States are so important, American experts should also be heard. Considering the imperative necessity of such a revision, and of the noteworthy increase in receipts that may be expected therefrom, I shall without delay entrust this work to a competent committee of experts, to which I shall add one American expert, or more.

9. Among other possible retrenchments it will be advisable to repeal the law of August 9, 1919, which admitted municipal judges to a judicial career, on account of the law failing to bring the results that we expected, and its repeal will mean a reduction of more than \$1,200,000 in the fixed budget. I shall send to Congress a message on this subject immediately upon the beginning of the ordinary session of the legislature on the first Monday of November, and shall use my influence to secure a repeal of the law.

10. I shall try to have a law passed for a foreign loan of \$50,000,000 in such way as to have the fullest powers delegated to me to fix and decide the terms and conditions of the contract, and the revenues to be offered as security, and also to determine the use of the proceeds of that loan, and the methods of administering it, the general plan of said administration and the exercise of the powers thus delegated being carried on by consultation and in accord with the Government of the United States.

11. I shall take action to have the present extraordinary session approve the bill concerning the "refection" of the sugar crop and in the immediately following ordinary session which will be opened by Congress on the first Monday in November, I shall further by every means at the command of the Executive the vote of the proposed banking law so that the banks now in liquidation may, when able to obtain the needed financial help, reorganize and be conducted as will the banks in existence, in accordance with that law which will prove a safeguard to public interests, and prevent the

abuses of confidence of private banks that have had so much to do with bringing on the present industrial crisis.

The foregoing declaration will show to your Government that I have adopted, and am determined to follow the program that is a previous requisite for the new loan and for the reorganization of Cuba.

I am [etc.]

ALFREDO ZAYAS

837.51/610 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, October 20, 1921—2 p.m.

165. For General Crowder.

Your 123, October 9, 6 p.m.; 124, October 13, 1 p.m.; and 125, October 17, midnight.⁶⁶

The Department has today received from J. P. Morgan & Company a communication⁶⁷ stating that the Company is prepared to proceed with the temporary advance of \$5,000,000 to the Cuban Government to meet the Government's urgent requirements and also to continue with negotiations for a loan of \$50,000,000 and the adoption of the measures which Cuba is to take incident thereto, as indicated in the Morgan proposition transmitted in your telegram of October 9, 6 p.m., as soon as the President of Cuba has received proper authority from Congress to contract the \$5,000,000 loan and as soon as the Company is informed of the sanction of the United States Government. The Company further states that it has not yet discussed with the Cuban Government any financial terms of the contemplated loan of \$50,000,000 since these must depend upon market conditions, which are gradually improving, and also upon the confidence of investors in the future financial policy of Cuba. The Company assures the Department that its object in future negotiations will be to encourage the Cuban Government to take such constructive measures as will insure the future fiscal stability of Cuba. In conclusion, the Company states that in view of the fact that the Cuban Government has urgent need of funds to meet certain emergencies, it suggests that if the \$5,000,000 loan is to be made for that purpose, it would be advisable to do so before Cuba's credit is further jeopardized.

The Department, as you have already been advised, has been disposed to approve of this temporary advance to the Cuban Government upon the understanding that it would be regarded as a part of the permanent loan and would be reimbursed from it, and upon

⁶⁶ No. 125 not printed; it summarizes President Zayas's letter of Oct. 16, p. 750.

⁶⁷ Letter of Oct. 17; not printed.

the understanding that the Cuban Government, as a condition precedent to the sanctioning by this Government of this temporary advance, as well as of the permanent loan, would be willing to obligate itself to carry out the constructive financial program already recommended by this Government. The Department approves of the interpretation of its instructions to you as stated by you on pages 11 and 12⁶⁸ of your letter of October 10, to President Zayas. The essential feature of Cuba's financial program must be the positive commitment on the part of the Cuban Government to maintain a certain fixed margin of receipts over expenditures. In view of the several commitments of President Zayas, reported by you in your cable of October 17, midnight, the Department believes this essential feature of the program is guaranteed and that the pledge of President Zayas that he will maintain a safe margin of receipts over all expenditures gives assurance that the ordinary revenues of the Cuban Government will be sufficient to meet the service of the proposed addition to the public debt of the Republic.

Upon this understanding, therefore, the Department will sanction the closing of the contract for the advance loan and will interpose no objections to the Cuban Government proceeding to continue negotiations for the flotation of the permanent loan. The Department will so advise J. P. Morgan and Company and will so reply to the Cuban Government when the contract is approved by the Cuban Congress and as soon as an official inquiry is received from that Government.

HUGHES

837.51/627 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, October 26, 1921—8 a.m.

[Received 6:25 p.m.]

129. Reference to your 165, October 20, 2 p.m. Zayas approved advance loan statute yesterday and late last night transmitted to me a copy. Material portion of said statute is article 1, which reads as follows:

“The National Executive is authorized to use the bonds of the issue of 1917, and the securities obtained through the forfeiture of the bonds of the Banco Nacional, reaching in all the amount of \$7,000,000, in nominal value, which are today deposited in the National Treasury, with the object of realizing a financial transaction which would result in the obtaining of a loan of \$5,000,000,

⁶⁸ *Ante*, pp. 745-746.

more or less, for the National Treasury, for the satisfaction of pending obligations, preferably [foreign], such as postal money orders, interest and amortization of the public debt and others without alienating said securities but only giving them as a pledged guarantee.

The rate of interest on this hypothecation shall not exceed 8 percent per annum.

The National Executive shall be able to pay preferred creditors, with the funds that are obtained from the transaction entered into with said bonds, in all cases in which the Government shall be a creditor as against real property."

Article 2 directs the President to report to Congress as to the use he makes of funds obtained by this loan and the concluding article 3 provides that the law shall become effective from the date of publication in the *Official Gazette*.

The material part of President Zayas's letter transmitting to me this law reads as follows:

"I understand that this transaction is a part of a program of economic reconstruction, an outcome of which will be a revision of the customs tariffs and interior imposts, and a loan of \$50,000,000 with the object of permitting [*sic*] the floating indebtedness, to restore the special funds of the Treasury and for other purposes, the \$5,000,000 received temporarily to be returned, once said loan is obtained.

Under this plan, and this temporary loan becoming a part or step toward the definite loan, I accept the opinion which considers it as coming under the precepts of the permanent treaty, and I hope that it will meet with no inconvenience nor objection on the part of the Washington Government as a consequence of the matters that we have discussed by correspondence and verbally."

I know from verbal conference that Zayas feels that he could defend the right of the Cuban Government to pledge these bonds as security for a loan without the sanction of the United States Government. The Department will note that he avoids this question by linking up this transaction with the constructive financial program he has adopted and with the permanent loan which is to follow and out of which the temporary loan is to be reimbursed. I have explained to Zayas that the Department's sanction of the temporary loan of \$5,000,000 must be upon terms which will leave the Department full discretion to act as it sees fit upon the application for the permanent loan of \$50,000,000 when that application is presented. While Zayas in our last conference conceded this point I think it would be wise if the Department, in granting its sanction for the temporary loan, should reserve in express terms freedom of action in case of the permanent loan.

A tentative form of contract for the advance loan has been prepared by Claudio Mendoza acting for Morgan and Company. Pre-

sumably this contract, which I have not seen, is in full accord with the proposition of Morgan and Company communicated in my 123 of October 9th. Request instructions.

CROWDER

837.51/680

The Cuban Minister (Céspedes) to the Secretary of State

[Translation ⁶⁹]

WASHINGTON, November 10, 1921.

MR. SECRETARY: I have the honor to inform Your Excellency that my Government having formulated a program for the suitable solution of the economic difficulties by which it is at present confronted and of which Your Excellency's Government is fully informed, has obtained from the National Congress the needed authorization to negotiate a \$5,000,000 loan to be secured by \$7,000,000 worth of bonds of the issue of 1917 and stock of the National Bank pledged as security that is in the National Treasury of the Republic. The proceeds of this loan will be applied to pending liabilities, preferably foreign, such as postal money orders, interest and amortization of the foreign debt; the stock will not be transferred but pledged as collateral until a foreign loan of \$50,000,000 is obtained by the Government of Cuba for the payment of the floating debt and other liabilities, including the said temporary loan, under proper authority from Congress as soon as the national taxes and customs duties are revised in accordance with the financial readjustment that my Government is carrying out at the present time. In order to complete the negotiations and secure the \$5,000,000, my Government wishes to know whether, under the provisions of Article 2 of the Treaty of Permanent Relations between Cuba and the United States, dated May 22, 1903, Your Excellency's Government has any objection to raise against the aforesaid loan.

I renew [etc.]

CARLOS MANUEL DE CÉSPEDES

837.51/643 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, November 16, 1921—6 p.m.

[Received November 17—2:21 a.m.]

135. In a message dated November 15 to be read at today's session of Congress, in compliance with article 68 paragraph 5 of the Constitution, President Zayas submits a provisional budget for the next

⁶⁹ File translation revised.

fiscal year 1922-23 giving the total expenditures for that fiscal year at \$64,422,664.68. He requests Congress not to discuss or consider said plan until the legislative session commencing first Monday in April 1922 for the reason that during the present session he intends sending further messages proposing reorganization of certain services with a view to effecting further reduction in the budget for said year.

The President informs me that the above-mentioned budget for fiscal year 1922-23 is identical with the one he is now publishing by installments in the *Official Gazette* under authority of the budgetary readjustment bill recently passed by Congress and forwarded as enclosure B with my despatch of October 26 last.⁷⁰ In answer to the question whether the budget for the current fiscal year now being published by installments will be subject to further reductions, the President answered that possible reductions could come only from acts of Congress enacted during the current fiscal year approving Presidential suggestions for reorganization of certain services, such as Department of Communications and Army and Navy; and then only if such acts of Congress were made effective from date of publication in *Official Gazette* instead of from the beginning of the fiscal year July 1st, 1922.

The 1918-19 budget increased by special laws and decrees since that year aggregated more than \$80,000,000 and expenditures during the first four months of the current fiscal year have corresponded approximately to an \$80,000,000 budget. Zayas's reductions and economies have just about restored the original figure. In other words Zayas has incurred obligations during the first four months of the current fiscal year amounting to about one third of 80,000,000 and during the remaining eight months of the current fiscal year he proposes to incur obligations amounting to about two thirds of a little more than 64,000,000. The total will greatly exceed the revenues that may be collected during the current fiscal year and makes it abundantly plain that the current expenses of government and the service of the existing public debt during that year must be met in no small measure from the proceeds of a loan or loans sought to be negotiated. As to probable amount of receipts for current fiscal year see my despatch dated September 24th and my 133, November 2, 1 p.m.⁷¹ I have just finished conference with Zayas at which we discussed my recommendations as to budgetary reductions particularly reductions in Army and Navy budget (see enclosure to my despatch of October 28⁷⁰). . . .

⁷⁰ Not printed.

⁷¹ Latter not printed.

The Department has before it the application of the Cuban Government delivered by Minister Céspedes⁷² for sanction for the advance loan. My definite recommendation is that the Department answer through same channel that it is advised that the budget for the current fiscal year promulgated by President Zayas under authority of recent budgetary legislation authorizes expenditures of about \$70,000,000; that as this amount appears to exceed the maximum authorized in said budgetary legislation and greatly exceeds the indicated receipts of the National Treasury for the current fiscal year, the Department must withhold its sanction for the advance loan, deferring final action until report mentioned in paragraph second [*seven*] of enclosure to my despatch of October 17, 1921,⁷³ is received.

CROWDER

837.51/643 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, November 19, 1921—6 p.m.

179. For General Crowder.

Your 135, November 16, 6 p.m.

In view of the positive assurances contained in the letter addressed to you by President Zayas on October 16, last,⁷⁴ and because of the many constructive steps taken by the President since his inauguration which had led the Department to believe that Dr. Zayas viewed the crisis confronting the Cuban Government in the same light as does this Government, which has believed that the situation in which the Cuban Government finds itself demands the carrying out, without deviation, of the financial program advised by this Government and agreed to by that of Cuba, the Department cannot but regard the budget presented to the Congress by the Executive on November 15, as giving cause for real and well-founded alarm. In the first place, the presentation of a budget for over \$64,000,000 for the fiscal year 1922-23 would seem to be in direct contravention of the assurances contained in paragraph 3 of President Zayas' letter above referred to, in which he states :

“ Prior to November 15, of this year, I shall present to the Congress the budget for the fiscal year 1922-23 and I shall limit the expenditures of that budget to \$55,000,000, adding a sum not exceed-

⁷² *Supra.*

⁷³ Despatch of Oct. 17 not printed; it enclosed a translation of the note of Oct. 16 from President Zayas, p. 750.

⁷⁴ *Ante*, p. 750.

ing \$5,000,000 for the payment of unforeseen expenses, and deducting from said superior limit of \$55,000,000 any sums derived from the loans and diverted to budgetary uses."

The Department appreciates the fact that the President states that he intends sending further messages to Congress, proposing the reorganization of certain services in order to effect further reduction in the budget for said year, but the Department cannot assume, at this time, that such reductions will be made effective by Congress. In the second place, if the President pursues the policy which his statements to you would seem to indicate, there can be no assurance that the expenditures of the Cuban Government, during the current fiscal year, will not total more than \$70,000,000, since the obligations of the Government incurred during the first third of the current fiscal year are on a scale of yearly expenditures of \$80,000,000, and the President proposes to incur obligations during the remaining two-thirds of the current year on a scale of \$64,000,000. All the information received by the Department confirms it in the belief that the revenues of the Cuban Government for the current fiscal year will not reach \$50,000,000, and unless the Cuban Government is willing to make, at once, even more sweeping and drastic economies than originally contemplated, it will be confronted at the end of the current fiscal year with a greatly increased deficit.

Under these circumstances, the Department cannot see its way, at this time, to sanction the \$5,000,000 loan contemplated by the Cuban Government, because of its obligations under Article II of the Platt Amendment. The Department will be unable to approve this temporary loan (which must be regarded in the same light as the permanent exterior loan since it is to be repaid from the proceeds of the latter), until the Cuban Government makes evident its determination to adhere strictly to the program regarding which Dr. Zayas gave assurances in his letter of October 16, and from which the present policy of the Cuban Government would seem to diverge very greatly. In this connection, it is desirable to emphasize the fact that while, in paragraph 2 of his letter above referred to, the President states that he will take \$50,000,000 as the minimum budget for the current fiscal year and demonstrate conclusively to the satisfaction of this Government, that any expenditures in excess of that sum up to the maximum of \$65,000,000 was indispensable to the efficient operation of the Cuban Government, the President has not taken \$50,000,000 as the minimum budget for the current fiscal year, nor has he made any effort to demonstrate to this Government that expenditures in excess of that sum are necessary. The Department awaits such explanation. Pending such report, the Department will be obliged to reply to the request of the Cuban Government for sanction of the temporary loan of \$5,000,000,

that since the expenditures contemplated for the current fiscal year, as proposed in the budget promulgated by President Zayas, will amount to at least \$70,000,000 and that since this amount appears to exceed the maximum authorized in such budgetary legislation and will far exceed the probable revenues of the Cuban Government for the current fiscal year, it cannot sanction the advance loan.

The Department views the possible outcome of the present situation, unless the President is willing to take, at once, steps which will make it possible for this Government to sanction the temporary advance, with the gravest apprehension. Indeed, unless this temporary advance is obtained, it is possible that the credit of the Nation itself, because of its inability, in the near future, to meet the service of its already existing public debt, will be so impaired as to make the flotation of an exterior loan in the United States impracticable. The Department is confident that President Zayas will recognize the justice of the views of this Government as above indicated, because of the very frank and helpful spirit of cooperation which has existed during the past few months between his administration and the Department of State, and that steps will at once be taken to meet the objections of this Government.

You are authorized to communicate the whole of the foregoing, or such portions as you may deem expedient, to President Zayas, and the Department trusts that you will continue to keep it closely informed, by cable if necessary, of all developments in the present situation. The Department is unwilling to refuse officially and finally to sanction the proposed temporary loan until every effort has been made to induce President Zayas to meet the views of this Government.

HUGHES

837.51/643 supp. : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, November 22, 1921—5 p.m.

180. For General Crowder :

Department's 179, November 19, 6 p.m.

The Cuban Minister, as result of a conversation in the Department on November 19, sent a cable to President Zayas similar in tenor to the cable above referred to. The Minister has today received a reply from Dr. Montoro,⁷⁵ by instruction of the President, to the following effect:⁷⁶

The President states that the Executive received from Congress, on October 22, the law of that date requiring the publication of the

⁷⁵ Dr. Rafael Montoro, Cuban Secretary of State.

⁷⁶ Quoted in *aide-mémoire* from the Cuban Legation, Nov. 22; not printed.

budget for the current fiscal year before the 1st of November; that the President eliminated in eight days about \$17,000,000 of annual expenditures, reducing the present budget to a little more than \$64,000,000, acting in accord with his commitments contained in his letter to you of October 16, except for the fact that the Cuban Government has not yet demonstrated to the satisfaction of the Government of the United States that the expenditures proposed in excess of the minimum of \$50,000,000 up to the limit of \$65,000,000 are essential to procure the efficient operation of the Cuban Government. Said demonstration, the President states, is now being prepared.

With reference to the budget of the fiscal year 1922-1923, the President states that the project presented to Congress on November 15 was due to the necessity of complying with the constitutional provision that it be presented on that date, although his purpose of modifying said project in accordance with his promises to you before that budget is discussed next April has been formally announced.

The President then states that the constructive financial program outlined in his letter of October 16 contains in its 1st paragraph the flotation of a temporary loan of \$5,000,000 which would not be the first step of the program if deferred until the total fulfillment of the succeeding paragraph, and assures the Department that the Cuban Government is not only fulfilling by the means which conditions permit the 2d and 3d paragraphs of the said letter, but is already endeavoring to carry out paragraphs 7, 8, 9, 10 and 11.

In conclusion, the President remarks that while the Department estimates the total revenues of the Cuban Government for the current year at \$50,000,000, its calculation must be problematical, since, in his opinion, it should not be deduced from the collections for the previous months of the present fiscal year, and that moreover that situation is foreseen, and remedies for it provided in paragraphs 5, 6, 7, 8 and 9 of his above mentioned letter.

The Department appreciates the urgent necessity for the Cuban Government obtaining the \$5,000,000 of the projected temporary loan. In view of the spirit manifested in the statements of the President, above referred to, if the President should send to Congress a message supplementary to his budget message of November 15,⁷⁷ announcing that it is his purpose to effect further reductions in the budget for the current fiscal year, or advise you in writing to the same effect, and indicate the branches of the Government in which such economies are to be effected and their probable extent, the Department would be disposed to sanction the \$5,000,000 temporary advance unless there is, in your opinion, some valid objection to such action by this Government.

HUGHES

⁷⁷ See telegram no. 135, Nov. 16, from the Representative on Special Mission in Cuba, p. 757.

837.51/647 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, November 23, 1921—5 p.m.

[Received 9:45 p.m.]

138. Have given very careful consideration to your 180 November 22nd and think we may accept the assurance that it gives of revision of the budget for the next fiscal year 1922-23 to conform to 3d paragraph of letter of October 16th.

With reference to budget for current fiscal year, the situation is more serious. The President's statement, in effect that in the eight days following the enactment of the budgetary law he had eliminated \$17,000,000 of national expenditures, is misleading. The budgetary bill under which he acted was introduced July 18th, passed the Senate August 3rd and the House August 16th. The conference report on said bill was submitted to the President on September 12th and in exact conformity with his wishes. According to the President's statements to me, nearly every day since the bill was introduced, and every day since said conference report was made, has been one of diligent study by him of budgetary reductions for the current fiscal year. His work therefore was not crowded into an eight-day period between October 22nd and November 1st, but extended over a period of nearly four months.

As I reported in my telegram of November 16th number 135 Zayas stated that he planned no reduction in the budget for the current fiscal year and the possible reductions in that budget could come only from acts of Congress enacted during the current fiscal year. In other words he proposed to substitute in the constructive financial program outlined in the letter of October 16th possible reductions by the Cuban Congress at a remote future time for positive and immediate reductions by the President under the authority of the recently enacted budget law. The budget which he has promulgated will almost certainly lead to a deficit of 10,000,000 and may possibly result in a deficit of 20,000,000. Such a large deficit can hardly be avoided by any action which may be taken under paragraphs 5th, 6th, 7th, 8th and 9th of said letter of October 16th. The President is returning to Habana today. I am endeavoring to make an appointment with him tomorrow. I shall combine both your telegrams⁷⁸ in a single paraphrase which I shall present to him, emphasizing the procedure outlined in the last paragraph of your said 180 as an indispensable prerequisite to obtaining sanction for the \$5,000,000 temporary advance.

CROWDER

⁷⁸ Nos. 179, Nov. 19, and 180, Nov. 22, pp. 759 and 761, respectively.

837.51/652 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, November 27, 1921—6 p.m.

[Received November 28—9:03 p.m.⁷⁹]

143. To the Department's request in your telegram 180, November 23 [22], 5 p.m., that President Zayas send a message to Congress or advise me in writing of the further reductions in the budget for the current fiscal year, indicating the branches of the Government in which such economies are to be effected and their probable extent, as condition precedent to obtaining sanction for the \$5,000,000 temporary advance, President Zayas has replied as follows:⁸⁰

"Esteemed General: In accordance with our conversation of yesterday, I wish to inform you that I propose to obtain greater economies in the readjusted budget in applying it during these eight months of the fiscal year, and advise Congress that I shall indicate reforms to bring about further economies.

If I have reduced the budget to \$64,422,000 it is evident that the sum of \$5,368,500 corresponds to each month and \$42,948,000 to the eight months period, but in the four months already transpired the budget of 1918-1919 has been applied, of \$64,460,000 reduced to \$62,629,326.25 by deduction of \$1,830,673.75 no longer applicable. Adding to it \$12,405,995.10 resulting from special laws and decrees, a total of \$75,035,321.35 is obtained, and there corresponds to each month \$6,252,943.46 and to the four months of July, August, September and October \$25,011,773.84. Further there became due in this fiscal year to the public employees, as gratifications, the sum of \$5,333,371.32 which makes a total of \$35,345,107.16 as expenses already incurred in the fiscal year, leaving \$34,076,858.84 as the balance of the total amount of the budget to be disbursed in eight months.

It is to be noted that these figures are not completely accurate because the Government made economies during the four preceding months in the judiciary, in the offices of public works, in the wages of agricultural interests, and also several appropriations of the budget were not spent in the proportion corresponding to said months. Sincerely yours, Alfredo Zayas".

It is not feasible in telegram to comment exhaustively on this letter but on examining the same the following facts stand forth:

(a) The letter is ambiguous. In one place it declared the amount to be disbursed in the next eight months at approximately \$43,000,000 and in another at \$34,000,000 but there is no undertaking to limit the disbursements to the latter sum.

⁷⁹ Telegram in three sections.

⁸⁰ Inconsistent figures in the quoted note following have not been changed.

(b) It is not in accord with figures heretofore furnished and statements made to me. Among these figures were those comprised in the report of the Senate Budget Committee which showed the current expenses to be: Under annual and fixed budgets \$63,730,773.85, under special laws and decrees \$13,781,632.60, total \$76,500,406.45 not including the employees' bonus. In commenting on these figures Zayas has repeatedly stated that the Committee failed to take into consideration additional special laws involving over \$4,000,000. Thus the Republic has really been incurring obligations at the rate of nearly \$81,000,000 per annum without counting the bonus. The amount spent during the first four months must therefore have been about \$27,000,000. Adding Zayas's own figure of bonuses for public employees during these four months, namely, \$5,333,333.32 the total would exceed \$32,000,000 for expenses already incurred in the fiscal year or \$2,000,000 more than estimated by Zayas.

(c) The amount designated as due under the bonus law is also not in accord with previous figures and statements. President Zayas has repeatedly referred to the bonus law as creating obligations at the rate of \$32,000,000 per annum and this is the amount estimated in the Senate Budget Committee's report. At this rate the amount which fell due from July 1st to September 16th when the law ceased to be effective would be \$6,666,666.00 and not \$5,333,333.00 as now estimated by Zayas. Moreover, he does not consider the portion which fell due before July 1st and amounts to over \$1,000,000. The estimate of the floating debt should therefore be correspondingly increased.

(d) The letter is not in accord with Zayas's statements as to amounts required during the balance of the fiscal year. In my interview with him on November 24th, referred to in my 139, November 24, 4 p.m.,⁸¹ he distinctly indicated that in calculating the maximum disbursements for the balance of the fiscal year he must limit himself to eight twelfths of \$64,422,000 and that he need not consider the expenses incurred during the first four months of the year. The latter portion of the letter would suggest a different conclusion but as pointed out under (a) the suggestion is uncertain and involves no specific commitment.

(e) The letter does not comply with the requirements of the Department's request to Zayas referred to in the beginning of this telegram for it contains no clear promise to make substantial reductions and it fails to indicate the branches of the Government where reductions are to be effected and the probable amounts thereof.

(f) The letter ignores the oft-repeated demands of the Department that the total budget expenditures for the current fiscal year be limited to \$50,000,000 and that the necessity for an increase must be conclusively shown.

(g) Although the recent congressional budget act gives Zayas ample power to frame a budget not exceeding \$65,000,000 but with no minimum limitation he now, after preparing a budget of practically the maximum authorized, proposes, for the reasons which to

⁸¹ Not printed.

me appear wholly insufficient to shift the burden of the more drastic reductions back to Congress.

(h) The ambiguity and vagueness of the letter and its disregard of previous statements and negotiations are an illustration of the passive resistance referred to in my despatch of August 22nd, paragraph one.⁸²

The facts which in my judgment should be controlling in determining whether a new loan shall be sanctioned include the following :

1st. The five prior loans of Cuba have been made almost exclusively applicable to purposes arising outside of current administration and of a character for which governments usually issue bonds, whereas the projected loan of \$50,000,000 is to be made mainly applicable to pay outstanding floating indebtedness incurred in connection with current administration.

2d. The revenues of the Cuban Government continue to exhibit a downward tendency and it is probable that the receipts for November will fall below those of October, the lowest month thus far in the current fiscal year. Zayas himself appears to recognize that the total for the current fiscal year under existing revenue laws may not exceed \$50,000,000 (see your 180, November 22, 5 p.m.). No revision of the tax laws which it is possible to make will be effective materially to increase receipts during the current fiscal year nor greatly to increase receipts during the lean years which are certain to follow.

3d. The outstanding floating indebtedness on May 20th last was fixed by Secretary Gelabert at \$46,000,000. This amount was materially increased during the remainder of the last fiscal year by bonuses accruing under the law of July 20, 1920, but not paid, and by expenditures in excess of receipts. It will be further increased during the current fiscal year by bonuses accruing up to September 16th last, the date upon which the bonus law ceased to operate, and represented by outstanding vouchers and also by expenses in excess of receipts under the readjusted budget recently promulgated by Zayas and which I have estimated in my 138 at between 10 and 20 million. No action which Zayas or the Congress can be relied on to take under paragraphs 5th, 6th and 9th of the letter of October 16th can be effective to obviate a large floating indebtedness at the end of the current fiscal year even though the entire \$50,000,000 loan be applied to the liquidation of such indebtedness. It should be remembered also that these figures ignore the increase in the fixed budget incident to the service of any new loan or loans which may be authorized.

4th. The disposition of President Zayas already in connection with the budget for the current fiscal year, to liquidate one promise with another of uncertain fulfillment at a remote date, is now too plain to be ignored.

Under all the conditions herein set forth, I cannot see my way clear to recommend to [*the?*] sanction of either loan. I have reached this conclusion reluctantly as I desired very much that

⁸² Not printed.

Cuba should be financially aided in this great crisis. I am convinced that Zayas fails even yet to appreciate the gravity of the situation, and that the appreciation by Congress is much less than his own.

The consequences of refusal to sanction the advance loan will in my judgment include the following:

1st. An attempt to pledge the bonds offered as security for that loan as an independent Treasury transaction not requiring the sanction of our Government. This attempt ought to be unsuccessful.

2d. Failing this first method, an attempt to turn over money for the immediate urgent necessities by farming out of the revenues, beginning with the lottery. Already there is talk of organizing a private corporation to take over the management of the lottery with the obligation to pay to the National Treasury considerable amounts immediately available for the purposes of government.

3d. Failing both these methods, I should expect at any moment to be forced to the rigid economy that we have been urging so long as the only means of avoiding a fiscal intervention and that as a first step Zayas would promulgate a revision of the readjusted budget ordering reductions in salaries extending from 25 percent of the higher salaries to 5 percent for the lower salaries, leaving untouched salaries less than \$100.

CROWDER

837.51/652 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, November 30, 1921—5 p.m.

183. For General Crowder.

Your November 27, 6 p.m.

The Department feels that it cannot sanction the proposed temporary loan without more definite assurances that economies will be made in the budget for the current fiscal year. It is understood that the budgetary legislation conferred on President Zayas ample authority to make such reductions without referring them to Congress, and it is expected that General Zayas, acting upon this authority and fulfilling written promises given to you, will reduce the total expenditures for this year to \$50,000,000 plus such additional sum as he may demonstrate to your satisfaction to be necessary for the efficient conduct of the Government. The Department feels, therefore, that President Zayas should give you, in writing, a much more definite statement of economies which he himself will put into effect in the immediate future, specifying the amount which can be saved and the specific Departments in which the savings can be effected. The Department is not prepared to admit that the Cuban Government is justified in planning a budget of \$64,000,000 and it feels that

no proof has yet been produced that expenditures in excess of \$50,000,000 are necessary. It desires, therefore, that you should impress upon General Zayas the Department's expectation that he will comply with the assurances given you in his letter of October 16, and the Department's desire for definite and detailed information as to the manner in which the budget will be reduced to comply with those assurances.

Department approves of your attitude and feels that President Zayas's letter is entirely inadequate. It is willing, however, to continue negotiations with a view to obtaining satisfactory assurances of economies, because it feels that the temporary loan would in itself, by reason of the conditions which can be imposed, materially assist in bringing about the economies and financial reforms which are so urgently needed in Cuba.

HUGHES

837.51/664 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, December 10, 1921—10 a.m.

[Received 5:25 p.m.]

149. Conferred at length with President Zayas yesterday. Secretaries of State and War both present. My statement that the re-adjusted budget for current fiscal year violated the act of the Cuban Congress as to the superior limit, disregarded the expressed wishes our Government for a budget well within that limit, and that it would probably lead to a deficit for the year of nearly 10,000,000 and might probably reach 20,000,000, was not challenged. Montoro argues that even so, the condition of Cuba in this respect was not materially different from that of many other countries in which there would be [no?] serious attempt in this abnormal year to balance receipts with expenditures. I replied that there was this distinguishing difference that Cuba entered upon the present fiscal year with a deficit which I believe to be unprecedented in percentage relation to national debt, and embarrassingly large from any point of view; that her basic industry upon which revenue receipts primarily depend was seriously threatened and no one could foresee its future; and that my Government was still in ignorance why certain budgetary economies discussed in my memorandum on budgetary reduction of Oct. 27 (enclosure to despatch Oct. 28⁸³) particularly as to military establishment, postal communication and diplomatic service

⁸³ Not printed.

were not entirely feasible. This led to a more or less detailed discussion of said memorandum and I pointed out again where economies aggregating between 4 and 5 million could be made by the President alone. This part of the discussion was finally brought to a conclusion by the statement of President Zayas that he was still giving the question of further reductions by himself and future reductions by Congress the most serious consideration.

The most significant utterance of the conference was when President Zayas expressed the view that Cuba's public credit was not seriously impaired and that if free to apply in the markets of the world for a loan he could easily obtain the needed financial assistance. He added that Speyer and Company had offered to advance the \$5,000,000 loan as a pure Treasury transaction not requiring sanction of our Government. I expressed my doubts as to whether this was the real attitude of Speyer and Company and President Zayas promised to verify his statement at a later interview.

President Zayas showed a cable from Céspedes announcing a first conference with Secretary Hoover respecting sugar tariff and I acquainted him with the contents my numbers 147⁸⁴ and 148.⁸⁴ He was optimistic that the best [results?] would ultimately be obtained by the procedure now inaugurated.

Pending amnesty bill which has already passed the House and was recently accepted in principle by the Senate, was seriously discussed. I submitted analysis of its scope and effect which President Zayas read aloud at the conference. He did not commit himself but I feel some assurance that he will not sign any amnesty bill as broad in scope as the one which the Senate is likely to pass at its next session. Copy of my analysis which is my third protest against this bill goes forward in today's mail.⁸⁵

CROWDER

837.51/664 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, December 20, 1921—2 p.m.

186. For General Crowder.

Your 149, December 10, 10 a.m.

If you feel that there is little prospect of further progress in negotiations along present lines, the Department desires that you should come to Washington for a conference. Before coming, you will make a final request for a definite answer in regard to budget reduction,

⁸⁴ Not printed.

⁸⁵ Transmitted with despatch of Dec. 10; not printed.

informing the Cuban Government that the Government of the United States regards the present situation with the utmost concern, and that it feels that the failure of the Cuban Government to make adequate reductions in its budget and thus to make possible the preliminary loan threatens to produce a most serious situation. You may also state that you have been called to Washington to confer upon the situation, and that you are informed that your Government desires you to return to Cuba after the conference with a view to remaining there until the present financial situation is satisfactorily solved.

HUGHES

837.51/1026

Memorandum by the Under Secretary of State (Fletcher)

[WASHINGTON,] *December 21, 1921.*

The Cuban Minister called at my request today, and, reviewing the loan negotiations, I strongly emphasized that effective budget reductions were an absolute prerequisite of our sanction of both the small and the large loan now being considered by the Cuban Government. I told him that the Department hoped that General Crowder's representations, which were made after exhaustive study and fullest consideration, and which had the entire approval and endorsement of the Department, would be heeded by President Zayas. I told him that the Department, mindful of the obligations resting upon this Government, was seriously concerned lest these loan negotiations should fail by reason of the Cuban Government's failure to put its house in order, that the only way to reduce was to reduce, and that this Government would have to insist on actual and effective reductions before it could give its sanction to these loans; that if the loans failed and Cuba was unable to meet the coupons falling due within the next two months, a very serious situation would arise.

The Minister said that he had already written along these lines to his Government and would be very glad to telegraph what I had said to him and urge strongly an agreement with General Crowder on budget reductions.

The Minister also asked with regard to withdrawal of the marines from Camaguey, and I told him that the matter was progressing and that I hoped, unless something unforeseen developed, to be able to give him a favorable reply shortly.

H[ENRY] P. F[LETCHER]

837.51/668 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, December 23, 1921—10 a.m.

[Received 3:03 p.m.]

153. Department's 186, December 20, 2 p.m., well timed and promises to be effective. Since its presentation better [progress?] is being made in negotiations. President Zayas has in preparation a decree which he hopes to have ready for promulgation January 1st carrying further economizing in the budget for the current fiscal year. At a conference yesterday he authorized me to tell the Department that the additional economizing to be provided in said decree would aggregate not less than \$6,000,000 and might possibly reach \$8,000,000, and that of this aggregate 4,000,000 to 6,000,000 would be saved in the Department of War and Marine and about 2,000,000 in the two Departments of the Treasury and Interior and that by these and a few other economies he expects to hold the total of expenditure for the entire fiscal year down to about \$60,000,000. I think this is the lowest figure that can be reached this year by way of revision of the annual budget.

If the Cuban Congress can be induced to revise the fixed budget by abolishing salaries of municipal judges and reducing representation expenses of congressmen as I have repeatedly recommended a further economy of about 1,800,000 could be effected. Will discuss this matter with President Zayas at a conference this afternoon.

Cuban Congress will not meet again until January 16th. I shall probably leave for Washington Monday morning via Key West.

CROWDER

837.51/668 : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, December 24, 1921—1 p.m.

189. For General Crowder.

Your December 23, 10 a.m.

Department desires you to consider possibility of securing promulgation of decree before your departure because of danger that General Zayas might otherwise delay matter and thus jeopardize the very satisfactory results which you have obtained. This matter, however, is left entirely to your discretion.

HUGHES

837.51/670 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, December 25, 1921—2 p.m.

[Received 9:33 p.m.]

156. Reference to your December 24, 1 p.m. I concur in Department's suggestion and have notified President Zayas that my departure will be delayed until decree, now in preparation, carrying further budget economies, is signed and promulgated which he again said would be about January 1st.

CROWDER

837.51/672

The Secretary of State to President Harding

WASHINGTON, December 28, 1921.

MY DEAR MR. PRESIDENT: Secretary Hoover has very kindly shown me the letter which he addressed to you on December 13th, in regard to the sugar situation in Cuba. I note that among his recommendations there is the following statement:

"(e) There should be an immediate settlement of the loan contract between the Cuban Government and Messrs. Morgan so as to relieve the trades of apprehension of Cuban Government bankruptcy and social chaos. This latter matter is so important that we would be well justified in at once instructing General Crowder to be more liberal in the requirements (no doubt very properly set up) as a condition of American government approval for this loan."

In view of this statement, I feel that you may be interested in knowing just what is the present situation in regard to this loan.

This Department has endeavored in every way to expedite the conclusion of a loan by the Cuban Government by cooperating with that Government in measures aiming to place Cuba's finances in such a position that the United States could properly give its sanction to the loan without disregarding the obligations imposed upon us by our Treaty with Cuba.

Article II of the Treaty of 1904 [*sic*] provides as follows:

"The Government of Cuba shall not assume or contract any public debt to pay interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the Island of Cuba, after defraying the current expenses of the Government, shall be inadequate."

Under present conditions, it is very evident that the ordinary revenues of Cuba are not adequate to provide for the service of an increased public debt after defraying the necessary expenses of the Government. For some months, there has been a steadily increasing governmental deficit. It has been felt that the further growth of this deficit must be stopped and a margin of receipts over expenditures adequate to provide for the service of the new loan must be created before the United States Government could properly give its consent to this new loan. For this reason, General Crowder has been discussing with the Cuban Government methods of increasing the public revenues by revising the tariff and the internal taxation system and methods of decreasing the expenditures by a downward revision of the budget. The consummation of the loan has thus far been delayed because President Zayas has as yet been unable to effect economies in the budget for the current year which would offer any hope of leaving a margin of receipts over expenditures.

I am glad to be able to inform you, however, that a Presidential Decree, making the desired revision of the current budget, will probably be issued within a very short time since President Zayas has confidentially informed General Crowder that such a Decree was being prepared. I hope, therefore, that this Department will be able to approve the loan in the very near future.

Faithfully yours,

CHARLES E. HUGHES

MEASURES TO RESTORE THE CREDIT OF CUBAN BANKS

837.516/55a : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, *January 4, 1921—5 p.m.*

4. Farnham, Vice President, City Bank, and Bruce, Manager of the Royal Bank of Canada, informed the Department today of the very serious anxiety which the two institutions represented by them have been caused on account of the recent concerted press attacks made against their branches in Cuba, . . . The result of this campaign has been that runs have started on many of their provincial branches and the managers of the banks have felt compelled to close down at once on any further advances and to refuse all credits for the time being. Consequently, several important sugar mills, which

had counted upon credits from these two institutions to finance the movement of the new crop, have been unable to procure the necessary funds and some ten thousand laborers have been thrown out of work. The situation is causing deep anxiety and it is the intention of Farnham who leaves today for Havana to remain in Cuba for a considerable period.

The policy of the Cuban Government in permitting this campaign against these foreign banks, which was undoubtedly initiated by those interested in the local banks known to be insolvent, has resulted in cutting off the assistance which the two above named institutions were providing in the adjustment of the financial crisis. In the opinion of the Department, the Government of Cuba should take immediate and forceful steps to put an end to this propaganda and do all in its power to restore confidence. You should communicate the above informally to the Cuban Government at the earliest opportunity and advise General Crowder as well of these facts in order that he may, in his discretion, discuss this question with President Menocal.

DAVIS

837.516/61

The Minister in Cuba (Long) to the Acting Secretary of State

No. 697

HABANA, *January 20, 1921.*

[Received January 27.]

SIR: I have the honor to state that the Department's telegram of January 4th 5 P.M. arrived in such a garbled condition that it was impossible to decipher it. Confirmation copy arrived and was deciphered January 18th.

Before this, and as has already been reported to the Department,⁸⁵ I spoke to President Menocal regarding the present campaign being conducted against the banks in this city, and he promptly took energetic measures to terminate it.

It appears that the papers which were harassing the banks have now, for the time being, abandoned their attacks.

That the President's present attitude will ameliorate the situation with regard to press articles against the Foreign Banks I have no doubt but there are bound to be occasional lapses as the large number of small newspapers published here seems to have rendered it quite difficult to exercise a supervision over what each publishes.

I have [etc.]

BOAZ W. LONG

⁸⁵ In despatches no. 661, Dec. 31, 1920, and no 678, Jan. 7, 1921; not printed.

837.00/2080

*The Representative on Special Mission in Cuba (Crowder) to the
Secretary of State*

[Extract]

HABANA, *March 12, 1921.*

[Received April 9.]

DEAR MR. SECRETARY: On January 1, 1921, I sailed on the U.S.S. *Minnesota* from Philadelphia for Havana, Cuba, to carry out your instructions specifically set forth in the following letter dated December 31, 1920:

[Here follows the letter of instructions to General Crowder printed in *Foreign Relations*, 1920, volume II, page 41.]

PRELIMINARY

I arrived in Havana harbor the morning of January 6, and was immediately called upon by the American Minister and the Captain of the Port, followed by the Chief of Staff of the Cuban Navy and the Secretary of State of Cuba. On the afternoon of the day of my arrival, I called upon and conferred at length with the President of the Republic and the following day made a call upon the Secretary of State.

The object of my mission, under the foregoing instructions, was of a twofold nature, involving as it did the rectification of the then existing electoral and financial situation in Cuba. As a final report may now be rendered upon the latter, the legislative and executive program of emergency relief measures therefor having been approved and put in effect, I herewith respectfully submit my final report on matters financial connected with my mission and will hereafter, at an opportune time, make final report on matters electoral connected therewith.

MATTERS FINANCIAL

1. PANIC OF OCTOBER 9, 1920

The inevitable envelopment of Cuba in a world-wide situation attended by a drastic decline in commodity and security values during the latter half of 1920 was featured by a fall in the price of sugar, Cuba's chief agricultural product, from a long sustained and highly abnormal level to pre-war figures, which at length occasioned the local financial panic of October 9, 1920.

2. EXECUTIVE EFFORT TO ARREST PANIC

For such a crisis Cuban business was wholly unprepared, owing primarily to the lack of anything approaching a modern system of banking legislation in this country. As this panic took the usual

form of runs on banking institutions by both savings and current account depositors to such extent as to sweep away public confidence in the stability of banks in Cuba and to temporarily exhaust cash reserves available for payment of deposits, the President of the Republic, at the urgent instance of representatives of banking interests and on the advice of the Council of Secretaries of Departments issued on October 10, 1920, a decree, of which the following is a translation, declaring a moratorium throughout Cuba to terminate on November 30, 1920, but which by subsequent decrees issued on November 27 and December 31, 1920, was respectively extended until December 31, 1920, and January 31, 1921:

[Here follows a translation of the moratorium decree printed in *Foreign Relations*, 1920, volume II, page 44.]

While the banking and other commercial interests of Cuba were for the time being secure under the credit respite afforded by the moratorium, the President of the Republic called upon our State Department to engage for Cuba the services of an American financial expert who would be willing to come here and make a thorough study of contributing causes of the emergency imperiling Cuban commerce and industry and undertake to prepare an adequate and practicable plan of immediate relief therefrom. For such special service the State Department enlisted the efforts of Arthur [Albert] Rathbone, who duly proceeded to Cuba, and on December 17, 1920, submitted a report⁸⁶ to the President of the Republic, copy whereof is on file in the State Department, the main feature of which, from the viewpoint of immediate remedial effect, is hereinafter described.

3. PROPOSED EMERGENCY LEGISLATIVE RELIEF

In the immediate foreground of contributory causes of the local panic of October 9, 1920, were certain conditions for which no legislative remedy was possible, and certain others, injurious to and incompatible with substantial commercial and industrial prosperity, the righting of which by the natural operation of economic laws was an end to be desired regardless of the amount of business depression or dislocation which the process might involve. Accordingly, emergency legislative relief measures were to be applied with the utmost of caution and discrimination. There had been an orgy of speculation and gambling, incited by the unprecedented war prices for sugars. Improvident credits had been extended by the banks wherefrom inevitable losses were due to ensue. No governmental legerdemain could restore to the banks such of their assets as had been absorbed, directly or indirectly, in sugar investments

⁸⁶ *Foreign Relations*, 1920, vol. II, p. 52.

at inflated prices, the like of which would not again obtain at any time in the visible future. As in any other disastrous business venture, banking institutions had, sooner or later, to face their losses resulting from the decline to normal of the erstwhile inflated sugar market value, and such of them as were insolvent be liquidated. And there had been an immense wartime stimulation of production. Old plantations had been extended and new plantations established on such a scale as to cause the local sugar output to be multiplied since 1914. Large investments had been made in this field on the expectation that the prices of sugar would remain at a high level. That agricultural expansion undertaken on so enormous a scale at such a time should yield disastrous losses to planters, and so aggravate the local business depression at a critical period in Cuban readjustment to the world-wide economic situation, was a lamentable but none the less unavoidable consequence of the wide-spread overconfidence of which local sugar growers were obsessed. Such losses had to be faced and endured without any legislative putting off of the evil day of reckoning.

3 (A). PROPOSED REMEDIES CONTRASTED

Numerically stated, three remedies had been proposed prior to my arrival in Cuba, namely, the Rathbone scheme, embodied in a report, hereinbefore referred to, containing a series of recommendations; the Tarafa measure, embodied in a proposed law; and the Torriente project, later embodied in a proposed law. Analytically considered for practical purposes, the Rathbone scheme and the Tarafa measure may be jointly dealt with, as the two, in their immediate remedial application to the then existing banking crisis were, in fundament, similar in design and purpose, i.e., a revolving loan fund to be derived from a Government bond issue and to be administered by a specially constituted commission. The Torriente measure, which, in effect, gradually removed the stay on debt collection imposed by the moratorium decree with a view to the interim partial movement of the present sugar crop and the debt liquidation thereby facilitated, excluded the idea of a public loan on the theory that to dispense with the same would necessitate the immediate placing on the market of the unsold remnant of the preceding crop to be followed by the equally compulsory marketing of current year production at prevailing market prices. With such a salutary objective at least, fault could not be found. Nor could a judicious appraisalment of the Rathbone-Tarafa measure fail to note that a quite probable consequence of an extrinsic credit addition of from fifty to one hundred million dollars to then existing and prospective credit facilities in Cuba, made available to banks and sugar pro-

ducers, would be a damaging tendency to withhold sugar from the market in ill-conceived anticipation of an increase in prices; whereas, without this addition to credit facilities, the crop would of necessity be marketed as produced. Having in mind the estimated yield for the present sugar year, it may be said with reason of the then prevalent crisis that there was no dearth, existent or prospective, of either money or resources in Cuba, but there was a veritable dearth of that confidence in the banking and business situation which is the touchstone of credit and prerequisite to commercial and industrial stability. To restore that lost confidence, to reconstitute it the channels through which credit would flow in the course of normal business from the sources of supply to points of utilization in commercial and industrial needs was the immediate task ahead on the speedy accomplishment of which depended the prevention of a breakdown of national commerce and industry and sequence of measureless complications. The executive moratorium decreed on October 10, 1920, it should be remarked, was due to expire on January 31, 1921, and its prolongation by further executive action was not to be considered, in view of conditions within and without Cuba. On this point public opinion was clamorous and undivided. The need for legislative remedial action was therefore supremely exigent. These considerations, as well as the daily developing situation during the month of January and the fact that public opinion in Cuba had pronounced adverse judgement on the Rathbone-Tarafa measure and in favor of the fundamentals of the Torriente project, led me to conclude that the Rathbone-Tarafa measure, in its immediate remedial application to the existing banking crisis and general situation (consisting of a revolving loan fund of fifty or more million dollars to be derived, as above stated, from a government bond issue and to be administered by a specially constituted commission), was quite impotent to contribute to the solution of the Cuban banking and business crisis and should be discarded from consideration of governmental remedial measures therefor.

3(B). GRADUAL REMOVAL OF THE STAY ON DEBT-COLLECTION, IN RESPECT OF OBLIGATIONS ANTEDATING OCTOBER 10, 1920, IMPOSED BY EXECUTIVE DECREE OF THAT DATE, ORDAINED IN ACT OF JANUARY 27, 1921, KNOWN AS TORRIENTE LAW NO. I

The Torriente project, providing for the gradual removal of the stay on debt-collection, in respect of obligations antedating October 10, 1920, imposed by executive decree of that date, was designed to afford industrial, mercantile and banking interests reasonable opportunity to liquidate, or make necessary credit utilization of commercial assets which had become temporarily unmarketable or unserviceable due to the acute but transitory demoralization prevalent in local busi-

ness and banking circles. Subjecting this proposed law, originally drafted by Senator Cosme de la Torriente at the instance of a joint committee of both branches of the Cuban Congress, to the test of responsiveness to the immediate needs of the situation, I was most favorably impressed with the possibilities of this measure as a means of restoring that confidence essential to normal credit and business relations. The composite judgment of financial experts representing the banking interests affected by its provisions approved of its essentials and public opinion regarded it with distinct favor. After satisfying myself of the merits of the project and of the need of incorporation therein of certain safeguards in the public interests, I made cabled report and recommendation thereon to the State Department containing my conclusions evolved from a series of local conferences and study of the subject, and upon advice of the Department's approval of the same,⁸⁷ I submitted my revised draft of the measure to the President of the Republic with explanation of the reasons for the proposed changes, in order that he might in turn inform the proper committees of Congress thereof and of the views of my Government in the premises. The result was the passage by Congress of the measure in the form in which revised by me, which was approved by the President of the Republic on January 27, 1921.

The law, known as Torriente Law No. 1, in its fundamentals, provides that rights of action arising out of bills of exchange, notes, drafts and other Code of Commerce credit instruments antedating the inception of the executive moratorium of October 10, 1920, shall not be exercised until after a period of one hundred and five days from the taking effect of the law (i.e., January 27, 1921) if the debtor make interim part payments thereon as follows: fifteen per cent within fifteen days; twenty-five per cent within forty-five days; twenty-five per cent within seventy-five days; and thirty-five per cent within one hundred and five days, default in any such part payment serving to make at once available to the creditor the remedies of general procedural law (sugar production obligations, however, not to be subject to such interim part payment restrictions). In respect of bank deposits the following scale of interim part payments to depositors is specially provided for, with like consequence in event of default therein: fifteen per cent within fifteen days; fifteen per cent within forty-five days; twenty per cent within seventy-five days; twenty-five per cent within one hundred and five days; and twenty-five per cent within one hundred and thirty-five days. Neither scale of such interim part payments became, however, automatically applicable in the classes of obligations above described, but only on the duly presented application to that effect of the

⁸⁷ Correspondence with the Department not printed.

debtor, which in the case of a banking institution was to be presented by the debtor to the Secretary of the Treasury, whereupon the former became subject to supervision of the latter acting through duly authorized representatives, and in the case of other debtors than banking institutions was to be presented to either a Municipal or First Instance Judge, as the case might be. As to mortgage debts, whether of real or personal property, and notarial instrument debts, antedating the inception of the executive moratorium, the first mentioned interim part payment scale is made applicable whenever the debtor is able to substantiate in a very simple, specially provided judicial proceeding that his default would not have occurred but for the payment stay on bank deposits contained in said moratorium or in this law. Public funds on deposit with banking institutions are by specific provision of the law not made subject thereto in any manner.

Local banking experts were agreed on the fact that the law was sufficiently liberal to permit any temporarily embarrassed banking institution which was in reality solvent to liquidate or make credit utilization of assets and so survive the effects of the business depression everywhere prevalent, and at the same time sufficiently drastic to make it impossible for any mismanaged, actually insolvent bank longer to impose upon or conceal its real condition from the public. Every bank of this latter class failing to make any of aforesaid interim part payments, could be forced by any outstanding creditor to suspend and liquidate.

To recapitulate: Sugar deflation, made worse by speculation, made possible a temporary exhaustion of credit in Cuba which had to be relieved at once to avert immeasurable disaster. Torriente Law No. 1 literally created and made available a supply of credit which sufficiently eased the situation to enable credit conditions to improve and recover from a state of collapse, by natural process.

3 (C). SPECIAL LAW OF SUSPENSION OF PAYMENTS AND LIQUIDATION OF BANKING INSTITUTIONS, APPROVED JANUARY 31, 1921, KNOWN AS TORRIENTE LAW NO. 2

Torriente Law No. 1 provided a systematic and reliable test, in the absence of banking legislation, for determining what banking institutions doing business in Cuba were insolvent and the extent of such insolvency; it did not undertake to provide a means of disposing of insolvent banks. Torriente Law No. 2 was a companion piece of emergency legislation, designed as the complement of the first mentioned law and to have an operation specially adjusted thereto. The wasteful delays and excessive expense necessarily involved in liquidation of an insolvent banking institution by estab-

lished judicial proceedings under the Code of Commerce and related remedial law, in a word, the recognized inefficiency of the judicial methods prescribed by the law of the land made resort to the courts, in the exigencies of the emergency, quite impracticable. The upshot of the situation was the measure known as Torriente Law No. 2, which provides a relatively simple, inexpensive, speedy, administrative, and withal, just means of insolvent bank management with a view to reorganization or liquidation, as the case may be, and to the maximum of interim conservation of assets for creditors and stockholders, made available alike to those having charge of the institution's affairs and to creditors, during the temporary operation of the law. The mechanism of the Act consists of a superior body of three members, the Secretary of the Treasury, *ex-officio*, and two other persons of known expertness in banking matters, to be appointed by the President and not to be subject to removal except for a criminal offense or other grave cause, after hearing, and an inferior body, separately constituted for each bank under administration, known as the Liquidation Board, composed of five members, removable for cause at any time in the judgment of the Commission, two of whom are to be appointed by it, one by the stockholders, one by the depositors, and one by the other creditors. Each member of the Commission is to receive a per diem compensation payable (together with the compensation, which the Commission is to fix, of such professional, clerical, and other personnel as in its judgment is necessary) from the public funds; while the per diem compensation, to be fixed by the Commission, of the Board members is payable from the funds of the bank under administration as part of the expenses thereof. The Commission must administer the affairs of each insolvent bank under its control with a view to either restoration to a solvent condition, where practicable, or final liquidation thereof, and to that end is invested with powers analogous to the combined powers of a court and receiver, which under the scheme of the Act the Commission is required to exercise, in all that pertains to bank administration or liquidation, through the subordinate Liquidation Board, above described, which latter functions at all times under its exclusive direction, supervision, and control. From the action and determination of the Liquidation Board as controlled by the Commission, an appeal lies, in matters where substantial rights are thereby concluded, directly to the Civil Chamber of the Supreme Court. Throughout the operation of the law, this is the only point of contact with the judicial branch of the Government, and is believed to be the minimum necessary to its validity. The procedure whereby the jurisdiction of the Commission is to be invoked and exercised and insolvent banks admin-

istered under its authority is prescribed in considerable detail in the law and, in addition, the Commission, with the approval of the President of the Republic, is authorized to make regulations for its proper execution having the force and effect of the provisions of the Act itself, that is, displacing cognate provisions of law inconsistent therewith.

The Act was drafted, revised, and enacted under the same circumstances as Torriente Law No. 1; my redraft thereof, which was adopted without substantial alteration, having been submitted after due consultation with the State Department.⁸⁸ All that has to do with the Liquidation Commission, its powers and duties and mode of exercise thereof, as well as much that relates to the scope and character of the law had to be injected by me in the original draft of the measure in order to make the same safe, workable, and efficacious.

In the circumstances, and pursuant to an understanding with the State Department on the point, no special provision for liquidation of insolvent merchants was considered advisable, in view of the provisions of the Code of Commerce as amended by the Law of Suspension of Payments of June 24, 1911, with which local business interests were familiar and which was generally regarded as reasonably adequate.

3 (D). OPERATION OF TORRIENTE LAWS NOS. 1 AND 2

Only eight banking institutions in Cuba made application for the deferred payment privileges extended by Torriente Law No. 1, two of which are located in the Province of Pinar del Rio, one in Santa Clara, and five in the city of Habana. Of these five, namely, the National Bank of Cuba, the Spanish Bank, the International Bank of Cuba, the Liberty Bank, and the Banco de Propietarios Industriales y Arrendatarios, the two first mentioned institutions have for many years played a most important part in the financial and industrial activities of Cuba. Both are entirely local institutions, with deposits in each case amounting to many millions of dollars. The former of the two, the National Bank of Cuba, is also a Government depositary and disbursing agent, under special contract, and now owes the Cuban Government approximately twenty millions of dollars. It has survived the test of the initial payment to depositors under Torriente Law No. 1, as interpreted by the Secretary of the Treasury in respect of the amount of same necessary to satisfy the requirement of the Act, and by meeting subsequent interim part payments or making satisfactory credit arrangements with depositors (in which effort it is now reported to be engaged) may succeed

⁸⁸ Correspondence with the Department not printed.

with the return of confidence in the general situation, in escaping the administrative receivership established by Torriente Law No. 2. At the last meeting of the Board of Directors the resignation of the President, William A. Merchant, was accepted and Porfirio Franca, Manager of the local branch of the National City Bank of New York (a Cuban who stands high in the estimation of all business and banking elements here) was elected in his stead and has signified his acceptance of the office. It is not believed that this bank will have to undergo administration at the hands of the Liquidation Commission provided for in Torriente Law No. 2.

Immediately after the enactment of Torriente Law No. 2, the Spanish Bank initiated most strenuous efforts through the public press, by circularization of depositors and otherwise to reach an agreement with depositors whereunder the bank was to be released from all obligation on savings or current account deposits as such, and in consideration of such release each depositor assenting thereto was to receive of the bank its promissory obligation to pay a sum equivalent to the unpaid balance on deposit whensoever its financial condition permitted, such obligation taking the form of so-called "Certificates of Administration" of the value of ten dollars, each, bearing interest, payable semi-annually, at the rate of six per cent per annum, and payable to bearer, obviously intended as a sort of asset currency, to be issued without let or hindrance of the law and to be retired from circulation when the need therefor no longer existed. To enlighten depositors as to their rights and remedies under Torriente Law No. 2, President Menocal gave out to the press, as his own, a statement prepared by me setting forth the merits of that law and the possible dangers to creditors' interests involved in any credit extension or other agreements entered into by depositors or other creditors with officials of insolvent banks as a means of keeping the same out of the administrative receivership provided for by Torriente Law No. 2. Explanatory of the apparent success of this time certificate project of the Spanish Bank, the *Evening News* of Havana, of February 14, 1921, contained the following editorial comment:

"The creditors of the Spanish Bank, for the most part Spanish merchants, Spanish Clubs, and Spanish residents of Cuba, have made the matter of the Spanish Bank a question of national pride, in which as Spaniards they will not permit their greatest financial institution to become engulfed in a financial crisis as long as they have the means to support the bank, which they have united in a plan of time certificates.

"With this plan being carried out the Spanish Bank will soon be doing business, and it is not likely to lose many of its clients, and those who have refused to take the certificates may be paid off in full, although the confidence being restored will bring most of these back to the Bank again soon."

The International Bank of Cuba is likewise engaged in a campaign to secure various sorts of credit extensions from depositors and other creditors, but it remains to be seen whether this institution and four others of minor importance, namely, the Liberty Bank, of Havana, the Banco de Propietarios Industriales y Arrendatarios, of Havana, the Banco Patricio Aizcorbe, of Pinar del Rio, and Saiz Hermanos y Compañía, of Pinar del Rio, which have taken advantage of the part payment privileges of Torriente Law No. 1, will be able to satisfy creditors to such extent as to keep out of the administrative receivership wherewith Torriente Law No. 2, has to do. That the majority of these will be unable to do so is quite probable. The Santa Clara institution above referred to, denominated the Banco Federal de Cuba, of minor importance, is now being administered under Torriente Law No. 2.

The Liquidation Commission, as now organized under Torriente Law No. 2, consists of Colonel M. Irribarren, Secretary of the Treasury, President *ex-officio* thereof, Porfirio Franca, Cuban, bank official possessing full confidence of all business interests in Cuba, and Oscar Wells, American banking expert, President of the First National Bank of Birmingham, Alabama, member of the Fiscal Advisory Council of the Federal Reserve Board, and director of a Federal Reserve Bank, unanimously recommended to the President of Cuba by the Federal Reserve Board. President Menocal even before the enactment of the law had agreed in a letter addressed to me to appoint a banking expert on the Liquidation Commission to be named by the Federal Reserve Board. The understanding had with President Menocal also contemplates that Oscar Wells shall formulate for the Banking Commission charged under Torriente Law No. 3, hereinafter noticed, with the preparation of a permanent banking law for the Republic, a proposed measure suited to Cuban financial needs.

In respect of the condition of the merchant class, as revealed by the operation of Torriente Law No. 1, I may state that the optimistic predictions made as a result of local conferences and investigations in my cablegrams to the State Department have been verified by the outcome thereunder, only an inconsiderable percentage of the merchants in Cuba having made application for the deferred payment privileges extended by that law, and no concern of magnitude, I am reliably informed, having found it necessary to do so. The inconsiderable extent to which banks and merchants in Cuba have availed themselves of the deferred payment privileges of Torriente Law No. 1, demonstrates unquestionably the fact that business in Cuba has emerged from the crucial period of the depression both solvent and self-sustaining. It may be affirmed with no less confidence that eventual complete recovery therefrom is in sight.

4. TORRIENTE LAW NO. 3

The recent banking crisis provoked a general demand for a modern system of banking legislation in Cuba which would safeguard stockholders, depositors and creditors against losses occurring through maladministration of bank affairs and against credit collapses, incident to prolonged periods of business depression, preventible in large measure by legislation facilitating in times of stress the maximum credit utilization of bank assets. In response to this demand, Torriente Law No. 3, approved January 31, 1921, created a National Commission to prepare and to submit to the President a system of banking legislation for the Republic which would suffice the needs of business and industry therein. The law provided that the Commission should consist of the Secretary of the Treasury, two senators, two representatives and five other persons, respectively representing agriculture, commerce, industry, banking business, and property holders; all members (except the first mentioned whose status is *ex-officio*) to be appointed by the President of the Republic. The chief expert adviser of this Commission, upon whom will devolve the major part of the work of devising and drafting the proposed scheme of legislation, according to the understanding had between President Menocal and the State Department, represented by myself, will be the American banking expert aforementioned, Oscar Wells of Birmingham, Alabama, who has just entered upon the discharge of his duties.

5. EXECUTIVE EFFORT TO STABILIZE SUGAR VALUES

The depression of the price of sugar in world markets to a point which entirely removed the element of profit from the Cuban sugar industry as a whole and so threatened its existence whereon Cuban commerce so largely depends, made necessary some governmental measure to stabilize sugar values in the permanent interests of both producer and consumer. The means to this end seemed to be sufficiently at hand in the subsisting war powers of the Cuban President, which, after consultation with the State Department and pursuant to understanding had on the subject between the United States and Cuba, was [*were*] invoked in the executive decree of February 11, 1921,⁸⁹ copy whereof is on file in the State Department, creating the Sugar Finance Commission as an emergency instrument to market the Cuban sugar supply then in sight, in the United States and other countries at a stable price level which would enable

⁸⁹ See telegram no. 26, Feb. 11, from the Representative on Special Mission in Cuba, p. 797.

that supply to continue by allowing a reasonable margin of profit to the producer, and nothing more. In the matter of sugar production and consumption, the United States is no less dependent on Cuba than Cuba is on the United States, for as is well known, our total of sugar production and importation from other countries than Cuba constitutes only a relatively small part of the domestic consumption demand supplied by the latter.

To guard against discrimination in favor of any particular class or interest concerned in the production or marketing of the sugar crop a combination of elements was effected in the prescribed personnel of the Sugar Finance Commission consisting of (a) larger producers, represented by Manuel Rionda and Robert Hawley, (b) smaller producers, represented by José Miguel Tarafa and Manuel Aspuru, (c) banking interests, represented by Porfirio Franca and Frank J. Beatty, and (d) the public in general, represented by the Secretary of Agriculture, Commerce and Labor, upon which head of department the final provision of the decree imposed the duty to see to the proper execution of the same, made effective upon the duly expressed assent thereto on the part of mill owners whose aggregate output amounted to at least seventy-five per centum of the sugar yield of the crop of 1919-20. This assent was duly announced on the eleventh day after the promulgation of the decree, thus satisfying the condition precedent to its taking effect. Cuban raws are now selling in the New York market at four and three-quarters cents, cost and freight, or 4.65 f.o.b., the Commission having recently sold one hundred thousand tons at that figure, sixty-five thousand of the same destined for the United States and the balance for Canada and Europe. So that the upward movement of the price of Cuban raw sugar during the past few weeks, due in part, no doubt, to the creation of the Commission, amounts to one and one-quarter cents per pound, though it is authoritatively stated that the price of 4.75, cost and freight, is not yet equal to the cost of production. At all events, the interests of the American consumer are sufficiently safeguarded by the reserved right of the United States (a condition of its assent to the expedient devised in the aforesaid decree) to object to the Sugar Finance Commission at any time and by the assurance of President Menocal that the Commission would be dissolved whenever the price of Cuban Sugar should exceed five and one-half cents per pound—a by no means unreasonable figure. It is believed that the operations of the Commission to the date hereof have had a wholly salutary effect on the permanent best interests of both producer and consumer which in last economic analysis are not discordant.

6. RETROSPECT AND PROSPECT

Looking backward to the date of Torriente Law No. 1 over the succession of events, herein related, which mark that stressful period in Cuban business and industry, it is conclusively evident that, with the cessation of the recent abnormal demand for the liquidation of credits, especially of deposit credits, with only five or six banks, all of minor importance, in such a disabled condition as to make reasonably probable eventual administrative receivership under Torriente Law No. 2, and but an inconsiderable percentage of merchants—and none of magnitude—under the necessity of claiming for themselves the credit extension allowed by Torriente Law No. 1, and with the subsidence of alarm following the revival of sugar values, the general business and industrial situation in the wake of the panic is sound at bottom, and that no permanent injury has been done Cuban interests. Looking into the visible future, the outstanding need of banking reform to prevent the recurrence of destructive panics overshadows all else in the vista of Cuban commerce and industry. Cuba has a number of heterogeneous banking institutions but no banking system; no adequate safeguards against either maladministration from within such institutions, or credit collapses from without in times of economic stress. To devise a scheme of banking reform which will leave the identity of these institutions unimpaired, and which shall contain the necessary safeguards and benefits is the problem presented by Cuban conditions whose intricacy might well tax the ability and ingenuity of our most experienced financiers. Cuba is fortunate in having one of them, the unanimous choice of the Federal Reserve Board, as expert adviser of her National Banking Commission charged under Torriente Law No. 3 with the preparation of an adequate banking law.

The readily discernible fundamental requirements of the situation, wherefor any permanent scheme of banking reform in Cuba must provide, are (a) a system of bank inspection equal in thoroughness and efficiency to that of national banks in the United States, (b) centralization of bank reserves, (c) adequate re-discounting facilities, and (d) a sufficiently elastic credit supply to satisfy the various needs of Cuban business and industry. The triple objective represented by requirements (b), (c) and (d) might doubtless be accomplished in a diversity of ways, but that which most commends itself to my judgment will, in briefest outline, now be stated. The plan contemplates the establishment of a central bank, in Havana, the powers and functions of which should be, *inter alia*:

To serve as a depository and distributing agent of the Cuban Government, to the exclusion of any other banking institution.

To re-discount commercial paper for banking institutions.

To hold and administer bank reserves, the maintenance of which shall be prescribed by law for all banks doing business in Cuba.

To issue notes against commercial assets and fortified by an adequate gold reserve.

To accept deposits only from the government of Cuba, or other governments, and banking institutions.

To buy and sell cable transfers, bankers' acceptances, bills of exchange and other commercial paper and securities, including those of the Cuban Government, or any political division thereof.

To make loans adequately secured, to banking institutions only, for limited periods, including mortgage loans on real and personal property, if they may be brought to meet the requirements of liquidity that the assets of such a bank must possess.

If the Government of the United States can find a way of participating as the majority stockholder, with the consequent control of the governing board and direction of management, and the Government of Cuba is willing to discharge the functions of a minority stockholder, then the institution would seem to be soundly launched, the solvency and elasticity of the note issue would be assured, and the credit-giving qualities of the plan would inevitably follow.

It is worth while to note that the basic principle of the central bank system in successful operation in the great European countries, and which is embodied in the foregoing suggestion of a central bank for Cuba, was adopted in effect by the Committee of the New York Chamber of Commerce, appointed to prepare a measure for banking and currency reform in our own country, in a report approved by the Chamber on November 1, 1906, and again in effect, by the National Monetary Commission created by the Aldrich-Vreeland Act, whereof the late Senator Nelson W. Aldrich was Chairman, in the famous Aldrich plan, the product of four years extensive investigation, submitted to Congress by that body. Of vital importance to Cuban business and financial interests is the elastic note-issue circulation, for which the plan outlined provides, whereunder is vouchsafed an ever available supply of credit money in times of normal and abnormal conditions, the volume of which is subject to expansion and contraction, in accordance with the needs arising from prevailing commercial and industrial conditions at any given period.

I am familiar with the contents of a report which Mr. Oscar Wells, the American expert to whom I have already referred, has made to the President of the Republic of Cuba upon his request, and concur in the general statements therein, particularly as to the argument in favor of the soundness of American participation for the use and benefit of Cuban economic conditions, and the belief in its effectiveness to the Government of the United States in ultimately planting a Republican Government on the Island of Cuba.

That such an institution as the central bank herein proposed would, under competent management and proper statutory safe-

guards, prove a bulwark of solvency to Cuban business and industry in times of financial stress, is believed to admit of little doubt, in the light of the experience of other countries, and the existing conditions in Cuba.

Respectfully submitted,

E. H. CROWDER

837.516/64 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, April 13, 1921—4 p.m.

[Received 8:17 p.m.]

65. Radical articles in local press attacking banks here have served further to undermine confidence already severely shaken as a result of Banco Nacional closing its doors Saturday.

Seriousness of permitting such press campaign to continue was brought to the attention President Menocal April 11, 4 p.m. April 12, 3 p.m., he received press and explained the impropriety of articles derogatory to banks which were actually aiding Cuban sugar producers. All press men except *La Discusion* showed disposition to refrain from exciting public. *Discusion* said its attitude would be modified gradually but comes out today with indiscreet article announcing Government intercession. President Menocal states that he will take drastic measures against *Discusion* should it continue to annoy banks. The *Diario De La Marina* and the *Havana Post* published temperate articles showing proper spirit.

Having been in constant touch with Royal and National City Banks' local managers whose principals are in New York City respectfully suggest advisability of conveying to Beatty and Farnham now in New York indication that local press attacks on banks will be discontinued.

LONG

INTERPRETATION OF THE TREATY OF COMMERCIAL RECIPROCITY
OF 1902 BETWEEN THE UNITED STATES AND CUBA ⁹⁰

611.3731/91

The Chargé in Cuba (Cable) to the Secretary of State

No. 1007

HABANA, June [July ?] 27, 1921.

[Received August 5.]

SIR: I have the honor to transmit herewith for the information of the Department clippings from the *Havana Post* of July 25, 1921, giving the English version of President Zayas' message to the Ex-

⁹⁰ For text of treaty of 1902, see *Foreign Relations*, 1903, p. 375.

traordinary Session of Congress relative to Reciprocity Treaty of December 1902, and its application in view of the Fordney Tariff Bill.

I have [etc.]

PHILANDER L. CABLE

[Enclosure]

Message of President Zayas to the Extraordinary Session of Congress, July 21, 1921

TO THE HONORABLE CONGRESS OF THE REPUBLIC: In a former message which should be considered during the present extraordinary legislature, we asked Congress for the designation of a mixed commission to prepare a general amendment of the Customs Tariffs, for study and resolution by Congress itself, in the next ordinary legislature, and we wish to again call the attention of the senators and congressmen to the extraordinary importance attached to this measure at the present time.

At present there is in force the Treaty of Commercial Reciprocity between the Republic of Cuba and the United States of North America, signed in Havana on the eleventh of December, 1902. Article 8 of this treaty establishes preferential character on importation of Cuban products in the United States over similar products of other countries, and in compensation, declares the same preference for imported products from the United States in Cuba.

In the proposal of tariffs, which is being studied by a commission of Congress in the United States, although it is true that it is declared that the contents of the said law do not revoke or lessen the symmetry of the Treaty of Reciprocity, or that of the law adopted for its execution, it makes, precisely, an excuse of Article 8, the symmetry of which is annulled and rejected. It cannot be kept from anyone that this annulment by one of the contracting parties of a bilateral pact, even when impugnable in the sphere of right, would be practically a factor applicable by the United States of America, or at least, would be equivalent to a notification of a termination of the contract, which would cease at the end of a period of one year, and in either case, the United States could give preference to products of other countries similar to ours, because the condition of exclusiveness contained in Article 8 of the treaty would have disappeared.

We hope, and are almost certain, that the good state of international relations between the two countries, the great gain that American commerce has made through application of the treaty, an advantage proportionately much larger than that obtained by Cuba, and above all the marked friendliness and good will of the people and

the government of that republic toward Cuba, will actuate adversely to the approval of this revocation of Article 8 of the treaty, which might bring us serious detriment, that could be remedied, perhaps, only by the foment of intercourse with other countries, which would offer for our products some protection, as once broken, the net of the treaty of reciprocity, our exclusive preference for products of the North American republic would cease.

However, the creation of such a situation would indeed be sad for us, for although were it not to alter our affectionate feelings toward that nation, it would surely diminish the importance of our intense commerce with that country.

The foregoing implies the necessity of preparing ourselves for a possible early termination of the state of affairs created by the Treaty of Reciprocity, and it is obvious, that the customs tariffs ought to meet the new situation.

Therefore, the request addressed to Congress in my former message demands urgent action and perhaps measures that might permit the immediate implantation of a new customs regime, or of modification of the existing one, if circumstances demand it, before the arrival of the constitutional opportunity of the coming ordinary legislature.

We pray of the Honorable Congress to give close and careful attention to this matter.

ALFREDO ZAYAS

PRESIDENTIAL PALACE OF HAVANA,

July 21, 1921.

611.373Su/14: Telegram

The Secretary of State to the Chargé in Cuba (Cable)

WASHINGTON, *July 29, 1921—11 a.m.*

138. For General Crowder.

Your 94, July 27, 2 p.m.⁹²

Please advise President Zayas that Senate Finance Committee states that it regrets that it will be unable to accord a hearing on tariff relations to the Cuban Delegation in view of the precedent which would be thereby created. The Department of State will, however, be glad to receive any memoranda which said Delegation may desire to present and refer the same to the Senate Committee. It is believed desirable that Delegation come to the United States in any event for conferences with Department and bankers regarding financial situation.

HUGHES

⁹² Not printed.

611.3731/91

The Secretary of State to the Chargé in Cuba (Cable)

No. 442

WASHINGTON, September 8, 1921.

SIR: The receipt is acknowledged of your despatch No. 1007, dated June 27, (apparently an error for July 27), 1921, transmitting a clipping from the *Havana Post* of July 25, 1921, containing an English translation of a message delivered by President Zayas to the Extraordinary Session of the Cuban Congress.

In view of the reference in this message to the effect which it is supposed that the Fordney Tariff Bill now pending in the Congress of the United States would, if it should become law, have on Article VIII of the existing Treaty of Commercial Reciprocity between the United States and Cuba, you are informed that Section 319 of the Bill, which is apparently the portion referred to, does not purport to affect Article VIII in its entirety, but only the proviso of that Article which is as follows:

“That while this convention is in force, no sugar imported from the Republic of Cuba, and being the product of the soil or industry of the Republic of Cuba, shall be admitted into the United States at a reduction of duty greater than twenty percentum of the rates of duty thereon as provided by the tariff act of the United States approved July 24, 1897,⁹³ and no sugar, the product of any other foreign country, shall be admitted by treaty or convention into the United States, while this convention is in force, at a lower rate of duty than that provided by the tariff act of the United States approved July 24, 1897.”

The following provision of Article VIII of the treaty would be unaffected if the Fordney Bill should be enacted:

“The rates of duty herein granted by the United States to the Republic of Cuba are and shall continue during the term of this convention preferential in respect to all like imports from other countries, and, in return for said preferential rates of duty granted to the Republic of Cuba by the United States, it is agreed that the concession herein granted on the part of the said Republic of Cuba to the products of the United States shall likewise be, and shall continue, during the term of this convention, preferential in respect to all like imports from other countries.”

Neither would the provisions of Article II of the Convention, which read as follows, be affected:

“During the term of this convention, all articles of merchandise not included in the foregoing Article I and being the product of the soil or industry of the Republic of Cuba imported into the United States shall be admitted at a reduction of 20 percentum of the rates of duty thereon as provided by the Tariff Act of the United

⁹³ 30 Stat. 151.

States approved July 24, 1897, or as may be provided by any tariff law of the United States subsequently enacted.”

Sugar is not one of the articles of merchandise included in Article I of the Treaty as then being imported into the United States free of duty and therefore comes within the scope of Article II and has to be admitted at a reduction of 20 percent of the rates of duty provided by any tariff law of the United States.

Your attention is called to the fact that this Section 319 of the pending Fordney Bill is identical with Paragraph B, Section IV of the Tariff Act of October 3, 1913.⁹⁴ The proviso of Article VIII forbade a preferential reduction to Cuba from the full duty greater than 20 percent of the full duty imposed on sugar in the act of 1897. In 1897 the full duty on 96° sugar was 1.684 cents per pound, 20 percent of which is 0.3368. In the Fordney Bill the full duty on the same grade is 2 cents per pound, 20 percent of which is 0.4 of a cent.

The sole purpose of the provision in the Tariff Act of 1913, which is repeated in the pending Bill, appears to have been to eliminate the reference to the Tariff Act of 1897, which was in force when the Reciprocity Treaty was negotiated in order that there could be no misunderstanding concerning the true intent of the Treaty that the preferential treatment given to Cuban imports should, at any given time, be based on the tariff law in force at such time, as provided in the last clause of the above quotation from Article II of the Treaty.

You are instructed to bring these facts to the attention of General Crowder and, in cooperation with him, to the attention of the appropriate officials of the Cuban Government.

I am [etc.]

CHARLES E. HUGHES

ESTABLISHMENT OF A COMMISSION OF PLANTERS AND BANKERS TO REGULATE THE MARKETING OF SUGAR

837.61351/209 : Telegram

*The Representative on Special Mission in Cuba (Crowder) to the
Secretary of State*

HABANA, *February 7, 1921—1 p.m.*

[Received 6:14 p.m.]

22. A plan for stabilizing Cuban sugar values and for the extension by the banks of much-needed credits to mill owners and planters has been formulated by representatives of each as the result of numerous joint conferences. Plan is favored by President Menocal. Will communicate in all necessary detail with my recommendation

⁹⁴ 38 Stat. 114.

when I have completed my study of the plan which is to be submitted to me in writing today. Plan will probably produce desired result here. Whether it is just and fair to the refiners and to the consuming public remains to be determined.

CROWDER

837.61351/211 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 9, 1921—3 p.m.

[Received 8:28 p.m.]

25. Referring to my cable of February 7, 10 a.m. [1 p.m.]. Proposed Executive decree on stabilization of prices for Cuban sugar production for the year 1920-1921 referred to me by President Menocal for my approval provides as follows:

1st. For the creation of a sugar finance commission consisting of seven members, five to represent producers and two the bankers participating in loans on present crop.

2d. Commission to control all operations of sale and shipment of present crop sugar products and to apportion passage [*tonnage?*] among product owners sales made and proceeds thereof derived from foreign market transactions.

3d. From the taking effect of Executive decree vessels carrying sugar products may not be cleared without authorization by commission.

4th. The commission shall respect all contracts and commitments on foreign account made prior to this decree.

5th. The commission shall publish semi-monthly and monthly average sale sugar made by them and commercial brokers association shall base thereon the semi-monthly average price of sugar to establish semi-monthly liquidation basis between mill owners and growers.

6th. Commission to serve without compensation, but its disbursements to be apportioned among interested parties.

7th. Members of commission only responsible criminally, Government liability for their acts being expressly disclaimed.

8th. Decree provides following commission personnel: Manuel Rionda, Robert Hawley, Miguel Arango, representing larger producers already accepted; Tarafa and Aspuru representing smaller producers, Guma as alternate if either declines; and Porfirio Franca and Frank Beatty representing banking interests.

9th. Taking effect of decree made dependent on formal acquiescence of mill owners in the aggregate representing 75 percent of production of last year, such acquiescence to be evidenced by formal acceptance of provisions of decree executed on specially prepared form for such purpose. Secretary of Agriculture charged with execution of decree.

10th. Commission empowered to make its own rules, conduct, and regulations for administration of the decree and assist in every way the obtaining of credits necessary for the marketing of crop.

Conclusion: In judging present situation the important ends to be achieved must be kept in mind. Primarily this is the making of the present crop and secondarily to that end planter and grower must be assured of fair price and of sufficient financial aid.

I am informed by banking interests that assurance of fair price and orderly marketing of crop will be the most powerful factor in promoting banking assistance. Decree safeguards American consumer by provision in preamble that its purpose is to assure a [ratio equal to or] slightly less than that which is obtained for the sugars of the same class from other countries. I have also assured myself in conference with five members of the commission that they desire only orderly marketing of the crop at reasonable prices and would regard high prices as detrimental to best interests of Cuba as tending to repeat present situation which grows out of exorbitant prices of last summer. Consumer being thus protected refiner needs no special protection as same conditions protect him.

Present situation very serious and immediate action vital. Present plan promises best solution both of price and finance difficulties and should therefore in my judgment be approved. Am satisfied that 75 percent of producers will speedily sign up and well-informed people are confident balance will be speedily secured.

Believe present plan offers best prospects of solution but present situation so complicated that no sure cure-all is possible.

My recommendations based on numerous conferences with mill owners, producers, *colonos*, bankers, export houses, brokers.

Albert Strauss, ex-vice governor Federal Reserve, and American merchants were present at my conference with five commission members yesterday. Mr. Strauss visited President with me this morning, and he, as well as American merchants, strongly join in my recommendation that Department approve this decree.

President expressed a wish that Department's approval might be received in time to permit issue of decree tomorrow and business interests believe instant action to be vital.

CROWDER

837.61351/211 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, February 10, 1921—6 p.m.

36. For General Crowder.

Your February 9, 3 p.m.

In order to avoid a serious shortage in the supply of sugar, the Department appreciates the urgent necessity of taking steps to insure the grinding of the present crop in Cuba and to provide some means

whereby the planters may be assured of necessary financial aid. The Department realizes that the maintenance of a fair price and orderly marketing of the crop will be the sole means of promoting the continued extension of credits by the bankers. It does not, however, appear from the proposed Executive Decree transmitted by you to the Department that the interests of the consumer, which in this case is the American consumer, are sufficiently safeguarded, and in view of the present state of public opinion in the United States the Department cannot approve the proposed Decree unless proper safeguards to the American consumer are provided, nor would it feel justified in so doing.

The Department believes, therefore, that the sugar commission should be appointed only upon the definite understanding that it shall be the aim of the commission to market the sugars in an orderly way in accord with natural laws and that it will not permit an artificial price to be created. For your information and for that of the commission, after careful consideration, the Government of the United States believes that in order to avoid abuse the maximum price at which the commission should dispose of the sugars under its control or permit their export is between 6 and 6½ cents. Furthermore, the proposed composition of the Sugar Finance Commission is open to grave objection. As proposed in Article 8 of the Decree, the Commission would contain five members representing the interests desirous of maintaining the price of sugar at the highest possible rate. The Department considers this preponderance indefensible. It is therefore believed that the Commission should be composed of two members representing the larger producer, one member representing the smaller producer, two members representing the banking interests and one member representing the public. The latter representative should be a member of the Cuban Government.

Upon the understanding that these amendments are incorporated in the proposed Executive Decree, the Department raises no objection to the immediate promulgation of the Decree. You should, however, make it clear to President Menocal and to the members of the Commission when appointed that the United States Government reserves the right to oppose a continuance of the plan should it be ascertained that the Commission is permitting the price of sugar to be maintained at an artificial figure.

COLBY

837.61351/213 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 11, 1921—5 p.m.

[Received 9:27 p.m.]

26. Referring to the Department's February 10th, 6 p.m. Sales Commission decree issued today carrying all American amendments with one modification; namely, representation of small producers increased to two making commission of seven. This modification I felt authorized to accept as within the spirit of Department's instruction. Personnel of Commission remains as reported in my February 9th, 3 p.m., eliminating Miguel Arango and adding Secretary of Agriculture representing public. Department's instruction as to maximum price between 6 and 6½ cents and reservation of rights to oppose continuance of decree omitted from decree but are included in a special note by me to President and members of the Commission which will be accepted by Commission by formal resolution. President Menocal requests me to inform Department that if Cuban sugar advances to between 5½ and 6 cents he will himself revoke decree.

CROWDER

837.61351/211 supp. : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, February 11, 1921—6 p.m.

38. For the Minister and General Crowder.

Refer our 36, February 10, 6 p.m.

The position of the Department regarding the proposed action of the President of Cuba regarding the exportation of sugar is based upon the assumption that the natural law of supply and demand has, on account of abnormal conditions in Cuba, been upset, and that the effort of the Cuban Government is through an orderly marketing of the sugars to restore confidence and the natural law of supply and demand. It is fully realized that if this is not done there would be a serious shortage of sugar in the world's supply, which would increase most materially the price to the consumer. It must be

made very plain, however, to the Cuban Government and to the Commission that if the Commission, through the powers conferred upon it, adopts measures which result in an artificial increase in price, and thus the cost to the American consumer, this Government must then interpose serious objections. Upon reflection, it may be inadvisable to indicate a maximum price, which might result also in the minimum price.

As you realize, there has been a demand in the United States for the Government to take measures to maintain the price of cotton, and other farm products, and Congress, as a measure of relief, passed a bill for continued operation of the War Finance Corporation, but the Government did not otherwise attempt to stabilize the price of those products. Any artificial and unjustifiable increase in the price of sugar would create a most serious adverse public opinion and it is most advisable that our position be made very clear to the President and to the Commission.

While we are opposed in principle to action for fixing or maintaining prices we do not feel justified in objecting to Cuba's proposed policy within the limitations indicated in order to meet the present emergency we should not approve of such action as a continuous policy.

COLBY

837.61351/216: Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, February 12, 1921—6 p.m.

[Received 8:05 p.m.]

28. Referring to the Department's telegram of February 11, 6 p.m., I can give most ample assurance that the views of the Department are fully understood and concurred in by the President and Commission; that for the identical reasons given by you the maximum price indicated in your February 11 [10], 6 p.m. was omitted from the decree but confidentially communicated in a separate note as already reported and with proper explanation that the purpose of said note was to indicate in the most unmistakable way that the Department would not consent to have the powers conferred upon the Commission be used to bring about an artificial increase in the cost of sugar to the American consumer; that before entering conferences I had carefully summarized the debate on the bill for continued operation of the War Finance Corporation and used the argument of that debate to make plain that any artificial and unjustifiable increase of price of sugar would encounter adverse public sentiment in the United States.

Out of abundance of caution, Department's telegram under discussion and this reply are being paraphrased to the President of Cuba. Confidential note mentioned herein will be sent by first pouch.⁹⁵

CROWDER

837.61351/213 : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, February 14, 1921—7 p.m.

43. For General Crowder :

Your 26, February 11, 5 p.m.

Please express to President Menocal the gratification of the Department upon receipt of his assurances that he will not permit an artificial price for sugar and that he will revoke the decree constituting the Sugar Finance Commission in the event that the price of Cuban sugar rises to between 5½ and 6 cents.

DAVIS

837.61351/237 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, March 31, 1921—10 a.m.

[Received April 1—3:35 a.m.]

56. Requirement of the Sugar Sales Commission decree is that Cuban sugar shall be marketed in an orderly way to meet every demand of refiners and at the current market price. Mr. Rionda, president of the Commission and speaking for it, says that there has been a rigid compliance with this requirement and submits report to General Crowder, dated March 29th,⁹⁶ which is being transmitted to Department in pouch leaving tomorrow instead of Saturday because of urgent nature of its contents. Actual sales by the Commission have not run as high as was hoped. Following seem to be at least some of the reasons therefor.

[1.] Arbuckle has signified his intention not to buy from the Sugar Sales Commission but makes efforts through Diego and Munoz in Havana and one New York broker to purchase 200 tons of Cuban raw. The Commission feels that Arbuckle ought not to be entitled to any preferential treatment.

2. Dummies are buying in Cuban raw sugar notwithstanding the fact that they cannot get a permit to ship. While there is not at

⁹⁵ Transmitted with despatch of Feb. 14; not printed.

⁹⁶ Transmitted with despatch no. 813, Mar. 31; not printed.

present sufficient evidence to prove it the indications are that these purchases are being made in the hope that Sales Commission decree will be revoked because of pressure Arbuckle and probably other refiners will be able to bring to bear. In this event it is feared that Cuban sugar will be dumped on the American market presumably at prices far below what it would command in today's market unless indeed Arbuckle and associates supposed to be the Federal Sugar Refining Company could manipulate the price to suit their desires.

Request investigation from the standpoint of American refiners and particularly Arbuckle's connection with any attempted boycott on Cuban sugars.

Sugar Sales Commission decree was a measure of relief for another acute industrial crisis. It was intended to bring about the orderly marketing of the Cuban sugar and by that means an inflow of money which would enable the banks to make the necessary advances to continue to grind throughout the present season. If the accomplishment of this great purpose is threatened we should know without delay where the responsibility lies. Since the formation of the Sugar Financial Commission grinding has been progressing favorably all conditions considered. Those who are unworthy of credit are said to be the only ones who have been unable to get the necessary financing with which to harvest their crop.

A wave of alarm has recently been produced by rumors to the effect that the life of the Commission might be terminated abruptly or the price of sugar be reduced suddenly. Such is their effect that Mr. Beatty of the Royal Bank and Mr. Farnham of the National City, leave today for New York. Pending conferences to be held there early next week, their branch banks here have seriously curtailed advances to sugar mills. As both of these gentlemen sat in on the original conferences and are fully aware of the reasons for creating the Sugar Finance Commission, it is respectfully suggested that the Department telegraph their New York offices inviting these men to be present at a conference to be held before officials of the Government in order that the latest available information from a banker's standpoint may be before the Department.

Mr. Hawley should [also?] in my opinion be similarly invited to speak for the transactions of the New York office of the Sugar Finance Commission before which conference it is expected that Rionda's report covering the Commission's transactions in Havana will be in Department's hands. General Crowder concurs. This telegram should be considered in connection with my despatch number 813.⁹⁷

⁹⁷ Of Mar. 31; not printed.

837.61351/237 : Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, April 6, 1921—7 p.m.

83. For the Minister and General Crowder. Your telegram 56, March 31, 10 a.m.

A conference was held at the Department this morning with Hawley, Beatty and Farnham. The rumors in Cuba that the Department intended to take action for the dissolution of the Sugar Sales Commission were, they felt, adversely affecting conditions there. The belief was general in Cuba, they also stated, that either Crowder or the Legation had received instructions to oppose further operations of the Commission.

The substance of the following is to be communicated by you to President Menocal, and, at your discretion to the Cuban Sales Commission.

“The Department’s position as outlined in its 36, February 10, 6 P.M., and its 38, February 11, 6 P.M., remains the same. Convincing evidence that the Commission is functioning improperly has not yet reached the Department, and the Department does not contemplate initiating action in opposition to the Commission, so long as these conditions exist. The Department of course reserves full liberty of action should abuses become evident.”

At your discretion you should take such steps as may be deemed prudent and advisable by you to quiet the above-mentioned adverse rumors. The Department will give out no statements.

HUGHES

837.61351/280

The Cuban Minister (Céspedes) to the Secretary of State

WASHINGTON, August 23, 1921.

MY DEAR MR. SECRETARY: I have the honor of bringing to Your Excellency’s knowledge that the Secretary of State of the Republic of Cuba has received a cablegram from the Chargé d’Affairs *ad-interim* of Cuba in Berlin, dated July 30, 1921, informing him that the German Commercial Consortium desired to buy from Cuba a large quantity of sugar and, with this purpose, had requested prices and conditions.

The petition of the German Commercial Consortium was referred to the Cuban Sugar Financial Committee who, thereupon, sent a representative of said Committee to Berlin with the object of establishing contact with the prospective buyers.

This representative, who is Mr. C. Harold Mott,—now in Berlin—has informed the Cuban Sugar Financial Committee of his impressions on this sale; and the Committee has addressed the Department of State at Habana as follows:

“The representative whom we sent to Berlin, Mr. C. Harold Mott cables us that he considers possible to do business with Germany, but that it is necessary, first, to dispose of certain difficulties relating to price and conditions obtaining. We are now engaged in studying these matters, but there is a point in which the Cuban Government could help us very efficiently. It is the following: As Germany has to pay certain sums to the Allies as reparations, she could deliver as part of such payment to the French Government refined sugars proceeding from Cuban raws, and endeavors are being made in order to have the French Government accept this plan. It would be very convenient that the Government of the United States inform the French Government that it would view with pleasure that these negotiations should have a good result and we take the liberty of expressing to you the idea that the Government of Cuba, through its Legation in Washington, might endeavor to obtain such an expression to the French Government.”

I am instructed, by a dispatch from the Secretary of State of Cuba, dated August 15, 1921, to express to Your Excellency that, after having carefully considered this matter, the Cuban Government finds that the disposal of a considerable quantity of sugar to European buyers would very materially relieve the congested situation prevailing in the sugar market, and, at the same time, help to solve the financial crisis of Cuba that is engaging the attention of our respective governments. The Cuban Government, therefore, considers that a sale of sugar to the German Commercial Consortium, under the conditions outlined, would be in this order.

The United States Government would assist Cuba in her present difficulties, in a friendly way, if it could inform the French Government that it would regard with pleasure anything that that Government might be able to do in order to facilitate these negotiations on the basis already stated, because it would help Cuba,—recently associated to the United States and France, during the World War,—to remedy, to some extent, the situation prevailing as a consequence of the great production of sugar to which she was urged to meet the needs of the United States and the Allies at that critical moment.

I respectfully request to be informed if Your Excellency's Government could assist Cuba by exerting its good offices in this matter.

With the renewed assurances [etc.]

CARLOS MANUEL DE CÉSPEDES

837.61351/280

*The Secretary of State to the Cuban Minister (Céspedes)*WASHINGTON, *September 3, 1921.*

SIR: I have the honor to acknowledge the receipt of your note, dated August 23, 1921, regarding the possible sale to Germany of Cuban raw sugar which shall be refined in Germany and delivered to France on reparation account.

In reply I have the honor to state that a copy of your note has been forwarded to the American Ambassador at Paris, and he has been instructed to transmit it to the French Government, and, at the same time, to express the interest of this Government in all practicable measures for assisting Cuba in marketing the present crop of sugar.

A copy of your note has also been transmitted to the Unofficial American Representative on the Reparation Commission, so that he may be informed should the question of receiving on reparation account Cuban sugar refined in Germany come before the Reparation Commission for discussion or decision.

Accept [etc.]

CHARLES E. HUGHES

837.61351/282a : Telegram

The Secretary of State to the Chargé in Cuba (Cable)

[Paraphrase]

WASHINGTON, *September 17, 1921—5 p.m.*

153. For General Crowder:

Rumors to the effect that efforts are being made in Cuba to have the Cuban Sugar Finance Commission dissolved are circulating in New York according to information the Department has received from New York bankers. If the Commission were disbanded and the sugar now held in Cuba were thrown on the market great losses for these banking interests would result, as it is stated that New York banks and their associates have lent over \$100,000,000 on Cuban sugar.

Protests have been filed with the Department by certain interests opposed to the operations of the Commission, asserting that it is an economic menace to Cuba and questioning its constitutionality. The Department would appreciate an expression of your opinion on this subject, assuming, however, that no radical change is imminent.

HUGHES

837.61351/284 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, September 19, 1921.

[Received 9:21 p.m.]

116. Reference your number 153 September 17, 5 p.m. Tomorrow morning's Havana papers will carry the following public statement by President Zayas:

"Referring to the reports which have been circulated to the effect that the Sugar Finance Commission established under the law of February 17 [11], 1921, is to be abolished and the sugars now existing in the warehouses in Cuba thrown on the market, it seems desirable for the Chief Executive to state officially that the Sugar Finance Commission is not to be abolished but that it will be continued with all the powers conferred upon it by the said law and will continue in full control of all the sugars remaining from the *zafra* of 1920-21, until the same are liquidated."

CROWDER

837.61315/305

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, November 12, 1921.

[Received November 15.]

DEAR MR. SECRETARY: By your telegram No. 153 of September 17, 1921, I was advised that certain banking interests were pressing the Department to secure a public statement by the President of Cuba that the Sugar Finance Commission, established by Decree No. 155, February 11, 1921, would be continued with jurisdiction over the present crop until the last pound of it was sold.

In my Urgent 115, September 18, 1921,⁹⁸ I advised the Department that the President had no thought of disbanding the Sugar Finance Commission and was contemplating a public statement to that effect. In my Urgent 116, of September 17 [19], 1921, I cabled President Zayas' statement in full. At the time the statement was given out, Mr. Roger Farnham of the National City Bank was in Havana and explained to me that the Banks were acting in pursuance of a plan agreed upon between them, Sugar Refiners, and the New York members of the Sugar Finance Commission, the more essential terms of which were to refine the raw sugar in bond, and to transfer the refined sugar to warehouses in close proximity to possible markets; the bankers to furnish the money to move the raw sugar to the re-

⁹⁸ Not printed.

fineries and the refined sugar to possible markets, and also to pay a proper toll to the refiners for their work.

On the 9th instant, Mr. Farnham explained to me that this plan had the concurrence of Secretary Mellon, but had failed because of the attitude of certain banking interests which declined to carry out the agreement, and because of the attitude of the Sugar Finance Commission as expressed by Mr. Hawley that all the present crop must be included in the agreement or the Sales Commission would refuse to deliver any raw sugar.

Mr. Farnham now states that the National City Bank is of the opinion that the Sugar Finance Commission should be discontinued, and I have a similar message from the Royal Bank of Canada. What the effect of discontinuance of said Commission will have upon the market price of sugar, it is not easy to determine. Most persons with whom I have talked consider that the immediate effect would be a marked lowering of price, but that within thirty days the market would begin to adjust itself to normal. Mr. Farnham has admitted to me that the attitude of the creditor banks in such a situation would probably be to advise sugar producers whose warehouse certificates are pledged to them, to hold on for the period of thirty days or more for an adjustment of the market price, and leave the competitive selling which would probably take place with a resulting crash in the market, to owners of sugar who can not get such support from the banks.

I am to have a conference with the President on this subject at an early date when I hope to start a movement which will elicit the opinion as to continuance or discontinuance of the Commission of the actual owners of the present unsold crop. This ought not to occupy a great deal of time. I think it would be unsafe to follow the opinion alone of the creditor banks whose clients are mainly the owners of the contract exempt sugar, all of which except about 40,000 tons have been sold.

I hope to transmit definite recommendations within a few days.

Very respectfully,

E. H. CROWDER

837.61351/311

The Ambassador in France (Herrick) to the Secretary of State

No. 822

PARIS, *November 23, 1921.*

[Received December 10.]

SIR: With reference to the Department's instruction No. 50, of September 6, 1921,⁹⁹ transmitting a copy of a note from the Minister of Cuba regarding the possible sale of Cuban raw sugar to Germany

⁹⁹ Not printed.

to be refined in Germany and delivered to France on reparation account, I have the honor to transmit herewith a copy and translation of the reply received from the Foreign Office.

I have [etc.]

MYRON T. HERRICK

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, November 19, 1921.

Referring to its note of September 26th last, the Ministry for Foreign Affairs has the honor to inform the Embassy of the United States that the French Government has submitted to the most favorable examination the suggestion relative to the importation into France, under the head of Reparations, of Cuban raw sugar, refined in Germany.

The competent services have called attention to the fact, in this connection, that owing to the devastation of the French Departments which were given to the culture of beetroot and the manufacture of sugar, French refineries, which have about maintained their capacity for production, suffer from lack of occupation. There would, therefore, be objections from the point of view of the general interest of French industry, to favoring a combination which would assure to the German refineries the benefit of a work which French factories could eventually take charge of, if French industry were to receive from the Sales Commission of Cuban sugars advantageous offers.

The Ministry for Foreign Affairs is very willing, in case it should be necessary, to call the attention of qualified representatives of French industry to offers of this sort which might be transmitted on the part of the above mentioned Sales Commission.

837.61351/307 : Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, November 27, 1921—11 a.m.

[Received 3:28 p.m.]

142. For Mr. Sumner Welles.¹

I think President Zayas in substantial accord with you, has a proposition to abolish Sugar Finance Commission at once rather than wait until February 1st as originally contemplated. At our last conference it [was] suggested [that] it would be advisable before

¹ Chief of the Division of Latin American Affairs.

issuing a decree of this character to consult the owners of the carry-over sugar. I have for several days contemplated that a decree abolishing said Commission would be issued at an early date with the approval of said owners and the consent of both Governments.

Respecting the tariff, public opinion here continues chaotic but an effort is being made to secure a study and report upon an *ad valorem* tariff. Have held important conferences in the last few days [in] supreme effort to consolidate Cuban public opinion in favor of the *ad valorem* duty.

CROWDER

837.61351/304

The Secretary of State to the Cuban Minister (Céspedes)

WASHINGTON, November 30, 1921.

SIR: I have the honor to refer to your note of August 23, 1921, and to the Department's reply of September 3, relative to the possible sale to Germany of Cuban raw sugar to be refined in Germany and delivered to France on reparation account.

I now have the honor to inform you that the Department is in receipt of a communication from the Secretary to the American Unofficial Delegation on the Reparation Commission,² stating that although the Reparation Commission had not acted upon the principle involved, it appeared improbable that the Commission would require Germany to deliver foodstuffs on reparation account if as a result Germany would be compelled to import other foodstuffs for her own needs or raw materials to produce foodstuffs for exportation. However, the Secretary of the American Unofficial Delegation advises that, according to information supplied by a French official connected with the Reparation Commission, France probably requires from 350,000 to 400,000 tons of imported sugar for the year 1921, and that such part of this as cannot be obtained from Germany on reparation account is being obtained from Cuba.

Accept [etc.]

CHARLES E. HUGHES

837.61351/315: Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, December 22, 1921—noon.

[Received 2:33 p.m.]

152. Decree issued yesterday under the terms of which Sugar Finance Commission ceases to function on January 1 except to liquidate its business outstanding on that date. Commission retains juris-

² Despatch of Oct. 27; not printed.

diction indefinitely over: (1) sugar in warehouses in the United States; (2) afloat; and (3) in Cuban ports awaiting tonnage already contracted for, in all about 1,100,000 bags, also to issue permits for export of sugar between present date and January 1, after which owners of sugar will be free to export. This latter power retained in the interest of the disposition of the three classes of sugar mentioned above.

CROWDER

837.61351/311

The Secretary of State to the Cuban Minister (Céspedes)

WASHINGTON, February 6, 1922.

SIR: I have the honor to refer to my note of November 30, 1921, and previous correspondence relative to the possible sale to Germany of Cuban raw sugar to be refined in Germany and delivered to France on reparation account, and to transmit herewith for your information a copy of the translation of a note addressed to the American Ambassador at Paris by the French Ministry of Foreign Affairs, in this connection.³

Accept [etc.]

For the Secretary of State:

HENRY P. FLETCHER

**PERMISSION GRANTED TO ALL AMERICA CABLES, INCORPORATED,
TO LAND AND OPERATE CABLES AT GUANTANAMO⁴**

811.7311c A1 5/38

The Minister in Cuba (Long) to the Acting Secretary of State

No. 639

HABANA, December 21, 1920.

[Received December 28.]

SIR: I have the honor to report that during the past two weeks Mr. Thomas R. Strahan, representing the All America Cables Company, and Doctor de Bustamante, who is the attorney for the above mentioned Company in Cuba, have been attempting to arrange the difficulty which appeared to lie in the landing of the Santiago-Guantanamo Cable at Guantanamo.

They informed the Legation that the United States Government did not feel that it was within its powers to grant a permit for the landing of the Cable over Article 3 of the agreement entitled "Lease

³ *Ante*, p. 806.

⁴ For previous correspondence concerning cable concessions in Cuba, see *Foreign Relations*, 1920, vol. II, pp. 58 ff.

to the United States by the Government of Cuba of certain Areas of Land and Water for Naval and Coaling Stations in Guantanamo and Bahia Honda", signed at Havana on July 2nd, 1903.⁵

On the other hand the Cuban Government was of the opinion that the lease granted to the United States, under Article 3 of the treaty between the United States and Cuba, the 20th of February, 1903,⁶ was such as to preclude the possibility of the Cuban Government granting a permit to land a Cable on what is essentially American soil, due to the above mentioned concession.

Dr. de Bustamante is now of the opinion that it will be necessary for the two Governments to come to a mutual understanding for the landing of this Cable, and perhaps also to clear up the existing relay station of the Cable to Panama.

I beg to transmit herewith copies of Dr. de Bustamante's letter to Mr. Strahan and a memorandum prepared by Mr. Strahan for the Legation.⁷ From these it is to be noted that an opinion is given which would arrange for a joint understanding between the two Governments, providing that [one] should be authorized, and their representatives could jointly take up the question involved.

I respectfully request to be instructed as to what steps the Department desires me to take in this matter so that I may be in a position to inform the representative of the All America Cables Company in the premises.

I have [etc.]

BOAZ W. LONG

S11.7311c A1 5/38 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, January 31, 1921—5 p.m.

29. Your despatch 639, December 21. Transmit to Foreign Office following proposal for an agreement concerning certain cables of All America Cables, Incorporated, at Guantanamo:

"The Government of the United States is informed that All America Cables, Incorporated, desires permission to lay, land, maintain, and operate the following cables at Guantanamo:

1. One or more cables which the Cuban Government, by decree dated July 20, 1920, and numbered 1201,⁸ authorized All America Cables, Incorporated, to lay between the city of Santiago de Cuba or any other place in the immediate neighborhood designated by the company, and the Bay of Guantanamo.

⁵ *Foreign Relations*, 1903, p. 351.

⁶ Apparently refers to the agreement signed Feb. 16, 1903, by the President of Cuba and Feb. 23, 1903, by the President of the United States; *ibid.*, p. 350.

⁷ Neither printed.

⁸ *Foreign Relations*, 1920, vol. II, p. 65.

2. One or more cables which the Government of Cuba, by decree dated July 20, 1920, and numbered 1202,^{8a} authorized said company to lay between Habana or Cojimar or any other place in the immediate neighborhood selected by the company and the Bay of Guantánamo.

3. A cable from Guantánamo which shall have its other terminal in the Island of Porto Rico, and which may be connected with Santo Domingo and Haiti if the company so elects. It is understood that an application for this concession has been filed with the Cuban Government.

All America Cables, Incorporated, also desires permission to maintain and operate its cables now landed at Guantánamo which connect with New York City and Colon. It also desires permission to maintain and operate its relay station at Guantánamo and to receive and transmit all messages which come there over any of the cables of the company wherever situated.

Article 3 of the lease signed on July 2, 1903, granting the United States the use of certain areas at Guantánamo as a Naval Station, requires that the United States shall not permit any person, partnership or corporation to establish or maintain within the said areas a commercial, industrial or other enterprise.

As it is important that my Government shall have facilities for rapid communication between its Naval Station at Guantánamo and points in the United States and elsewhere, I have the honor to state that my Government will be grateful if the Cuban Government will consent to such a modification of Article 3 of the lease of July 2, 1903, as will permit All America Cables, Incorporated, to lay, land, maintain, and operate the aforesaid cables at Guantánamo; to maintain and operate its cables now landed at Guantánamo which connect with New York City and Colon; to maintain and operate its relay station at Guantánamo, and to receive and transmit all messages forward[ed] over its lines. This request is not intended to cover any further modification of the Article in question than that which would enable the All America Cables, Incorporated, to land and operate the cables just mentioned.

My Government is of the opinion that if the Government of Cuba is disposed to approve the proposed modification of Article 3 of the lease of July 2, 1903, in the manner above indicated such modification can be regarded as consummated by the delivery to me of a note from the Cuban Government acquiescing in my Government's request."

COLBY

811.7311c A15/38

The Secretary of State to the Minister in Cuba (Long)

No. 282

WASHINGTON, February 5, 1921.

SIR: The Department has received your despatch No. 639 of December 21, 1920, relative to the necessity of a modification of Article 3 of the agreement entitled, "Lease to the United States by the Government of Cuba of Certain Areas of Land and Water for Naval

^{8a} *Foreign Relations*, 1920, vol. II, p. 65.

and Coaling Stations in Guantanamo and Bahia Honda", signed at Habana on July 2, 1903, so that All America Cables, Inc., may be authorized to lay, land, maintain, and operate certain cables at Guantanamo. You state that Doctor de Bustamante is of the opinion that it will be necessary for the two Governments to come to a mutual understanding for the landing of these cables.

You are referred to the Department's telegram, 29, of January 31, 1921, which directed you to transmit to the Foreign Office a proposal for an agreement for a modification of Article 3 of the lease, signed on July 2, 1903, so that All America Cables, Inc., would be allowed to lay, land, maintain, and operate the cables at Guantanamo. You are informed that the telegram in question was submitted to the President for his consideration and that he approved it.

The Department encloses herewith a certified copy of a permit signed by the President on January 31, 1921,⁹ authorizing All America Cables, Inc., to lay, land, maintain, and operate at Guantanamo its proposed cable between Santiago, Cuba, and Guantanamo on condition that a joint agreement is reached between Cuba and the United States modifying Article 3 of the lease of July 2, 1903.

You are requested to expedite the exchange of notes on this subject and to submit a report on the matter to the Department.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

811.7311c A1 5/51

*Executive Decree No. 337, March 21, 1921, Granting Permission to the All America Cables, Incorporated, to Land and Operate Cables at Guantanamo*¹⁰

[Translation¹¹]

In view of the application filed by Mr. Thomas R. Strahan on behalf of the All America Cables Company, Incorporated, for permit to land, at the U.S. Naval Station at Guantanamo, the cables referred to in Presidential Decrees Nos. 1201 and 1202 of July 20, 1920;

Having heard the opinion of the Director General of Communications, on the recommendation of the Secretary of the Interior, I resolve:

1. To grant to the All America Cables, Incorporated, the necessary authorizations or permissions for the establishment, maintenance, and operation, at the U.S. Naval Station at Guantanamo, of the cable lines referred to in the following paragraphs, as well

⁹ Not printed.

¹⁰ Enclosed with despatch no. 845, Apr. 15, from the Minister in Cuba, which is not printed.

¹¹ File translation revised.

as for connecting up these lines with the offices of the company at each of the places mentioned below :

First: For the cables between Santiago, Cuba, and Guantanamo Bay, as referred to in Presidential Decree No. 1201 of July 20, 1920, or between Santiago, Cuba, and any other place in the immediate vicinity that may be designated by the company, or any place on Guantanamo Bay.

Second: For the cables between Habana and Guantanamo Bay, granted by Presidential Decree No. 1202, also of July 20, 1920, or between Habana or Cojimar or any other place in the immediate vicinity which may be designated by the company, with the consent of the Cuban Government, which cables shall have their other terminals in Guantanamo Bay or at some other nearby place, with the privilege of establishing connections or substations at any or all of the following points: Baracoa, Nipe or Antilla, Gibara, Nuevitas or Tarafa, Puerto Padre, San Fernando or Moron, Caibarien, Sagua la Grande or Isabela, Cardenas or Matanzas.

Third: For the already existing cables which extend from the U.S. Naval Station at Guantanamo to New York City in the United States, and to Colon, at the entrance of the Panama Canal.

Fourth: For one or more cables which the company proposes to run between the U.S. Naval Station at Guantanamo and any point on the Island of Porto Rico, with optional stops in Haiti and Santo Domingo.

Fifth: For the installation and maintenance of a communication station of the various cables of the company among one another, at the U.S. Naval Station at Guantanamo, and in order to receive and transmit therein all messages which may arrive over any of the cables of the company, wherever situated.

2. These permits are granted for an indefinite period, without prejudice to the rights of third parties, and it shall not be understood that any monopoly is granted in favor of the All America Cables, Incorporated.

3. The Cuban Government reserves the right to suspend these permits or take possession of the plants whenever and for such length of time as it may deem suitable in order to protect public interests. In this case the Cuban Government shall determine at its discretion the compensation or indemnity, if any, that is to be received by the All America Cables, Incorporated.

4. The All America Cables, Incorporated, shall at all times respect the laws, provisions, and resolutions enacted or to be enacted in regard to telegraphic, telephonic, or wireless communications, or to any other system which may exist in future in the interior of the Republic, as far as they may be applicable.

5. The Government may at any time enact, with respect to this permit, such regulations or rules as it may deem suitable to public interests.

6. The concessionary company may request that one or more particular parts of the works which it executes be declared public utilities for all legal purposes, the Government reserving the right to make or not the declaration to this effect, at its own discretion in each case.

7. The location of the landing points of these cables and other work in the maritime zone and on the Cuban shore which is carried on under the jurisdiction and control of the U.S. Government by virtue of the treaty of February 23, 1903, between the Cuban and U.S. Governments, and a lease concluded with said Government on July 2, 1903, shall be executed with the consent and under the inspection of the proper authorities of the U.S. Government after the official permit is obtained from the Government concerned, and the location of all other landing points and other work within the maritime zone on the Cuban coast shall be executed with the consent and under the inspection of the proper authorities of the Cuban Government, being performed after obtaining the official permission of the authorities of said Cuban Government.

8. The permits granted under this decree shall be understood to take effect upon the publication of the present decree in the *Gaceta Oficial*, and taking into account, with respect to those (cables?) having their landing point at the Guantanamo Naval Station, that the concessionary company shall have the necessary permit of the U.S. Government for the purposes of the jurisdiction and control which the Government of said Nation exercises over these lands by virtue of the treaty of February 20, 1903,¹² to the terms of which treaty the authorizations or permits granted are subject.

Given at the Executive Mansion at Habana on March 21, 1921.

M. G. MENOCAL

President

CHARLES HERNÁNDEZ

Secretary of the Interior

811.7311c A1 5/49

The Minister in Cuba (Long) to the Secretary of State

No. 828

HABANA, April 8, 1921.

[Received April 16.]

SIR: With reference to the Department's instruction No. 325, dated March 26, 1921,¹³ relative to the proposal for an agreement concerning the laying of certain cables of All America Cables, Incorporated, and to the Legation's despatch No. 822, dated April 5,

¹² See footnote 6, p. 809.

¹³ Not printed.

1921, enclosing copies of its note No. 279 dated March 31, 1921,¹⁴ to the Foreign Office, I have the honor to transmit, herewith, copies of the Foreign Office note (No. 476 April 5, 1921) in reply thereto, which accepts the proposition as set forth in the Legation's note No. 279. These copies have been carefully compared with the original on file here, but the original will be transmitted on request.

I have [etc.]

BOAZ W. LONG

[Enclosure—Translation]

The Cuban Secretary of State (Desvernine) to the American Minister (Long)

No. 476

HABANA, April 5, 1921.

MR. MINISTER: I have the honor to acknowledge the receipt of Your Excellency's kind note No. 279 of March 31, last,¹⁵ in which you are pleased to forward, under instructions of the Government of the United States of America, the proposal of an agreement concerning certain cables of the All America Cables, Incorporated, in Guantanamo to take the place of the agreement set forth in Your Excellency's note No. 257 dated February 7, last,¹⁶ and in that of this Department of March 4 last,¹⁵ to the effect that the Government of Cuba grant permission to All America Cables Company, Incorporated, to land, maintain, and operate the following cables at Guantanamo:

1. One cable or more, which this Government, by Decree No. 1201, dated July 20 of last year, authorized the said company to lay between the city of Santiago de Cuba, or any other place in the immediate neighborhood that might be designated by the company, and Guantanamo Bay.

2. One cable or more, which the Government of Cuba, by Decree No. 1202, bearing the same date as that above named, authorized the said company to lay between Habana or Cojimar, or any other place in the immediate neighborhood selected by the company and Guantanamo Bay.

3. A cable from Guantanamo, which shall have its other terminal in the island of Porto Rico, and may be connected with Santo Domingo and Haiti, if the company so elects.

Your Excellency also says that All America Cables Company, Incorporated, likewise desires to maintain and operate the cables also landed at Guantanamo, which connect the cities of New York and Colon, and also to maintain and operate its relay station in Guantanamo, and also to receive and forward all messages that may ar-

¹⁴ Neither despatch nor enclosure printed.

¹⁵ Not printed.

¹⁶ Not printed; the Department's telegraphic instruction no. 29, Jan. 31, p. 809, was so garbled in transmission that not all of its provisions were included in the first agreement; to correct the faulty version the agreement here printed was substituted for it.

rive there over any of the cables of the company, no matter where they may be; your Excellency adds that the Government of the United States would be grateful if the Cuban Government would consent to a modification, as to the stations established at Guantanamo, in Article III of the Convention concluded between Cuba and the United States of America on July 2, 1903, which regulates the lease of the naval and coaling stations made on February 16/23, 1903, so that All America Cables Company, Incorporated, shall be permitted "to lay, land, maintain, and operate the aforesaid cables at Guantanamo, to maintain and operate its cables now landed at Guantanamo which connect with New York City and Colon, to maintain and operate its relay station at Guantanamo, and to forward all messages sent over its lines."

In reply it affords me pleasure to inform Your Excellency that the President of the Republic accepts the aforesaid proposal transmitted by Your Excellency on behalf of the Government of the United States in your Legation's note No. 279 of March 31 last.

I avail myself [etc.]

PABLO DESVERNINE

**SUSPENSION OF THE WESTERN UNION TELEGRAPH COMPANY'S
PERMIT TO LAND A CABLE IN CUBA**¹⁷

837.73/27 : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, January 7, 1921—3 p.m.

7. Your 360, December 24, 8 p.m.¹⁸ Send by mail a copy of the decree suspending the cable permit of the Western Union Telegraph Company.

DAVIS

837.73/32 : Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

[Paraphrase]

HABANA, January 11, 1921—5 p.m.

[Received January 12—4:36 a.m.]

8. Department's cable number 7. I sent military attaché to confer with the Secretary of the Interior after I had waited several days for the decree to be published, and have received the following report:

¹⁷ For previous correspondence concerning cable concessions in Cuba, see *Foreign Relations*, 1920, vol. II, pp. 58 ff.

¹⁸ *Ibid.*, p. 69.

President Menocal has signed the decree of suspension and took action thereon by sending guards to Cojimar to prevent cable construction. The following reasons were given for not publishing officially the decree in the *Official Gazette*: (1) the Government of Cuba hesitates for fear that the Western Union will make a claim for indemnity of several million dollars; (2) the Government of the United States has made no official request to the Cuban Government to suspend the concession.

The Government has been requested to-day [by the Company?] to permit its work on the cable to continue, as published in Associated Press despatches. Undersecretary has informed Mr. Carlton¹⁹ that the Government of the United States has not asked Cuban Government to suspend concession. It has developed, upon inquiry, that whenever the Cuban Government considers it to be best for its welfare, it can at any time suspend the concession, and that as this provision actually exists textually in the concession one reason for withholding official publication is therefore invalid. The fact that the Government of the United States has not made request is probably the real reason why the decree has not been published. Upon inquiries made by the local press, the information given has invariably been that the Legation has not yet taken steps to bring about the suspension of the permit. I request instructions.

LONG

837.73/32 : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, January 14, 1921—6 p.m.

16. Your 8, January 11, 5 p.m.

Department desires you to communicate the following orally and informally to the President:

In reply to questions addressed to him at a session of the Senate Committee regarding the landing by the Western Union Telegraph Company of the cable at Cojimar, the Acting Secretary of State stated substantially that the Government of the United States had not felt at liberty to request the Cuban Government to suspend the landing permit because of the fact that the granting or the refusal of this landing permit was, of course, a matter within the sovereign rights of the Cuban Government; that although it would be objectionable and detrimental to the interests of the United States if such cable in violation of the policy of the United States and of the landing permit granted on November 20, 1920²⁰ by the United States to the Western Union Company, regulating the operation of its

¹⁹ Newcomb Carlton, president, Western Union Telegraph Co.

²⁰ Not printed.

cables between Key West and Cojimar, were used for transmitting through messages from the United States to Barbados and thence to Brazil, in which latter country the connecting Company enjoys monopolistic privileges, the Department had not felt justified in requesting the Cuban Government to assist in a controversy between the United States and an American corporation. I am authorized to say, however, that my Government reserves the right to protest to the Cuban Government later on, if the Cuban landing permit is once more granted to the Western Union Company, and it should be later ascertained that the landing of this cable in Cuba was used by the Company as a subterfuge and as a means of violating the conditions under which messages are permitted to pass between Key West and Cuba.

DAVIS

837.73/31

The Acting Secretary of State to the Minister in Cuba (Long)

No. 274

WASHINGTON, January 25, 1921.

SIR: The Department has received your despatches of December 24 and December 28, 1920,²¹ relative to the landing of the proposed Barbados-Miami cable of the Western Union Telegraph Company in Cuba. You state that the Legation has never been in a position to make full representations regarding this matter as it has never been fully informed relative to the Department's attitude.

It has been the long-established policy of this Government to prevent foreign cable companies that have received from foreign governments monopolistic grants for cable connections from landing cables on our shores. If the monopolistic grant is modified so that American cable companies are allowed to land cables on the shores of the foreign nation, and connect freely with the inland telegraphic system, the objection of this Government is withdrawn. This policy was declared by President Grant in 1869 when a French cable company attempted to land a cable from France on the shores of the United States. The French company had received an exclusive concession from the French Government for laying cables between the shores of France and the United States. President Grant prevented the landing of the cable until this exclusive grant was modified so that companies formed in the United States for the purpose of laying cables from its shores to the shores of France were allowed to land in France. Further information concerning cable landings in the United States is set forth in Senate Executive Document No. 122, 49th Congress, 2d Session, a copy of which is enclosed herewith.^{21a} Information on the subject may also be found in Moore's

²¹ Neither printed.

^{21a} Enclosure not printed.

International Law Digest, Volume II, Section 227, page 452, and in Volume 22, *Opinions of Attorneys General*, Page 13.

Your attention is particularly invited to the attempt of the United States and Hayti Telegraph and Cable Company to land a cable from Brazil in the United States which is discussed in the enclosed copy of a letter dated May 24, 1898, addressed by Mr. Day²² to the Attorney General, dealing with a similar attempt to land a cable from Brazil on the shores of the United States.

Objection was made to granting the application of the Western Union Telegraph Company for permission to land its cable at Miami Beach, Florida, because of the monopoly of interport cable communications enjoyed by the Western Telegraph Company in Brazil. As this monopoly makes it impracticable for American cable companies to land cables from the north on the shores of Brazil, representatives of the Western Union Telegraph Company were informed that this Department could not recommend to the President that he issue a permit for the landing of its cable from Barbados at Miami Beach, Florida, as this line would constitute a link in the proposed line of the British cable company to Brazil.

When the Western Union Telegraph Company took steps indicating an intention to land a cable at Miami Beach, Florida, without a permit, the matter was brought to the attention of the President, and he directed that the consideration of the Western Union's application for a permit should be postponed until the International Conference on Electrical Communications could consider the general question of landing licenses and monopolies and directed that the Departments of War, Navy and Justice should cooperate with the Department of State to prevent an unauthorized landing of the cable in the meantime.²³

As the Western Union Telegraph Company was unable to effect a landing of the cable at Miami Beach, it took steps to divert the cable into Cuba, with a view to using its existing lines between Key West and Cojimar, and the President then modified the permit issued to the Western Union Telegraph Company on April 16, 1917, for the landing of its three cables connecting Key West with Habana, Cuba. A photostat copy of the permit of the Western Union Telegraph Company for the operation of these cables as modified by the permit issued on November 20, 1920, is enclosed herewith for your information.²⁴

Subsequently, the Western Union Telegraph Company has instituted two suits to obtain an injunction restraining officers of the

²² William R. Day, Secretary of State.

²³ See letter of July 20, 1920, from President Wilson to the Secretary of State, *Foreign Relations*, 1920, vol. II, p. 687.

²⁴ Not printed.

Government concerned with the matter from interfering with the landing of this cable, and also with the laying of certain cables between Miami and Miami Beach, Florida, to be used with the line from Miami Beach to Key West, Florida. These suits are now pending in the Supreme Court of the District of Columbia.

The Department desires you to report promptly any developments in connection with the attempt to land the cable from Barbados in Cuba. The Department's views on the subject were set forth in its telegram No. 16 of January 14, 1921.

I have [etc.]

NORMAN H. DAVIS

[Enclosure]

*The Secretary of State to the Attorney General*²⁵

WASHINGTON, May 24, 1898.

SIR: I have had the honor to consider your letters of the 23rd of March and 5th of April last,²⁶ touching the disposition to be made of the suit of the *United States v: La Compagnie Française des Câbles Télégraphiques, et als.*, for the purpose of enjoining the defendants from laying or maintaining a cable upon the soil of Long Island and connecting the territory of the United States with foreign territory. In your letter of the 23rd of March you ask for a reply to a suggestion, which has been made to your Department, that the suit be discontinued, it having been represented that every right which the Government can properly claim will be conceded by the defendants on an arrangement between the Government, represented by this Department, and the companies, should a discontinuance be entered. In order to present the matter in a connected form, it will be necessary to recite certain facts already known to your Department.

For a number of years permission was granted by the President of the United States to cable companies to land in the United States on certain conditions, the first of which was as follows: "That the Company has received no exclusive concessions from the Government of (the Government at the other end of the line) 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 and connecting such cable or cables with the telegraphic systems of"

In 1889 the Compagnie Française des Câbles Télégraphiques, commonly called the French Company, applied for permission to land at Charleston, in South Carolina, a cable to connect the shores of the

²⁵ MS., *Domestic Letters*, vol. 227, p. 592.

²⁶ Neither printed.

United States with those of San Domingo. The Central and South American Telegraph Company, an American organization and an ally of the Western Union, protested against the granting of this permission, on the ground that the cable from San Domingo to the United States was merely a link in a line of the French Company intended to connect the United States with Brazil. The French Company then held, and, so far as this Department is advised, still holds, from Brazil and certain other South American Governments, the concession of an exclusive right to land cables within their jurisdiction. The French Company therefore would not have been allowed under the old conditions to land in the United States a cable directly from Brazil.

Mr. Blaine, who was then Secretary of State, entertained the protest of the Central and South American Telegraph Company; and in order to prevent, as he maintained, the French Company from doing indirectly what it could not do directly, altered the first of the standing conditions so as to exclude from the privilege of landing a cable in the United States, any company which "connected" with another company having from a foreign government an exclusive privilege which would prevent the establishment and operation of the cable of an American Company in the jurisdiction of such foreign government.

The French Company obviously was unable to accept this condition with respect to its San Domingo cable, unless it relinquished its exclusive rights in Brazil; and it finally appealed from the Executive to Congress. A bill was introduced to allow the landing of the cable, but it failed to pass. It was actively opposed by Mr. Blaine.

Subsequently the United States and Hayti Telegraph and Cable Company was formed for the purpose of effecting a connection with the San Domingo cable at Coney Island. An application was made to the courts of the United States for an injunction to restrain its landing. Lacombe, Circuit Judge, on December 15, 1896, refused a motion for a preliminary injunction, the ground of his refusal being that the element of immediate necessity was wanting. The laying of the cable was completed before the motion was submitted on the affidavits and proofs. At the same time Judge Lacombe expressed the opinion that the "main proposition" of the United States was a sound one; that, without the consent of the general government, no one, alien or native, had a right to establish a physical connection between the shores of the United States and those of any foreign country; and that the determination of this question belonged to the Executive, in the absence of Congressional action.

On the question of granting a permanent injunction there does not appear to have been any hearing, and the attorneys of the French Company and of the United States and Hayti Telegraph and Cable Company now ask that the suit be dismissed; and at the same time they offer to accept the standing conditions as they existed prior to 1889.

Assuming now, what this offer seems to imply, that the French Company still refuses to accept any condition which would require it to relinquish its exclusive rights in South America, the case stands (saving any reduction in rates) precisely as it did in 1889, except in two particulars, (1) that the cable has actually been laid and is in operation, and (2) that a suit for an injunction is pending against the company because of its failure to obtain permission to land.

Under these circumstances, the discontinuance of the suit, before an agreement with the company had been arrived at, would seem to imply a waiver on the part of the President, in this instance, of the exercise of any power which he may possess to impose conditions upon the landing of cables, and would be equivalent to a concession, for the time being, of an unconditional right to land. The Department could not recommend that such a step be taken, especially in view of the court's expression of an opinion favorable to the Government's position in the suit.

Practically, therefore, we are brought back to the simple question raised in 1889, as to whether the President shall require of the company, as the condition of granting it permission to land its cable in the United States, the relinquishment of so much of its exclusive rights as would prevent the establishment and operation of a cable of an American company in certain countries of South America. The position taken by the Department on this question in 1889 was to all appearances deliberately assumed, and it was afterwards steadily maintained, unless at such times as the Department has expressed the view that the whole subject-matter was, in the absence of legislation, beyond its cognizance. According to the opinion of your Department, however, as expressed on the 18th of January last by Acting Attorney General Richards, the power of the President in the premises is ample.²⁷ This Department is therefore prepared, upon the strength of that opinion as well as upon the strength of many of its own precedents and of the opinion of Judge Lacombe, to consider, without regard to the precise form, any proposition which will secure to this Government the essential rights for which it has contended. As the statement has been made to this Department that the United States District Attorney at New York is

²⁷ See *Opinions of Attorneys General*, vol. 22, pp. 13-27.

in favor of dismissing the pending suit, it is probable that he may have formed a definite opinion as to the terms on which such action might properly be taken.

In compliance with your request, I herewith return the papers enclosed with your letter of the 23rd of March.

Respectfully yours,

WILLIAM R. DAY

837.73/32 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, *January 29, 1921—5 p.m.*

28. Your 8, January 11, 5 p.m. Department's 16, January 14.

Telegraph whether decree suspending Western Union permit has been officially published. If not published, inform Foreign Office that this Government will not support any claim of the Western Union for indemnity based on suspension of landing permit; that Western Union's claim is considered unsound and unsupportable because the permit expressly provided in Article III for its suspension when it was deemed proper for the protection of the public interest, and furthermore this Government believes that the landing license in Cuba was obtained as a means of circumventing any action which this Government should take to prevent the landing of the cable at Miami Beach. Mail instruction forwarded to you January 26 [25?].

COLBY

837.73/37 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA [*undated*].

[Received February 4, 1921—6:20 p.m.]

28. Department's January 29, 5 p.m. *Gaceta Oficial*, February 3, contains suspension of Western Union permit. Suspension due to noncompliance by Company with provisions of permission granted.

LONG

837.73/32

The Secretary of State to the Minister in Cuba (Long)

No. 295

WASHINGTON, *February 18, 1921.*

SIR: Referring to the Department's telegram No. 16 of January 14, 1921, and the Department's instruction No. 274 of January 25, 1921, relative to steps taken by the Western Union Telegraph Company to land its proposed Barbados-Miami Beach cable at Cojimar,

you are informed that this Government did not consider it proper to request the Cuban Government to suspend the landing permit which was issued to the Western Union Telegraph Company by Cuba on June 3, 1920,²⁸ for landing a cable from Barbados at Cojimar, Cuba. The issuance or suspension of cable landing permits is considered a sovereign right of the Cuban Government, and it was considered possible that the Cuban Government might resent any representations or suggestions by this Government which might be construed as an attempt to influence the decision of the Cuban Government on this question.

This Government also does not feel justified at this time in requesting the Cuban Government to assist it in a controversy with an American corporation. Furthermore, if Cuba complied with such a request, it might lead to difficulty if at some subsequent time Cuba requested similar action by this Government in a case that might prove embarrassing to it.

For these reasons it was decided that no representations should be made at this time to the Cuban Government on the subject.

This decision was reached, although it was realized that if this cable was landed in Cuba it would be detrimental to the interests of the United States, because it appeared possible that it would result in a violation of the long established policy of this Government to require any foreign cable company to give up any exclusive or monopolistic rights which it had at the foreign terminus of the cable in exchange for the right to land it on our shores, either directly or by means of a connecting link. The action taken by this Government in similar cases that have previously arisen, is set forth in the Department's mail instruction of January 25, 1921. Consideration was also given to the possibility that the landing of this cable in Cuba would result in an attempt to transmit messages to and from the United States, originating in or destined for points in Brazil, over the existing cables of the Western Union between Key West and Cojimar, and this would result in a violation of the conditions contained in the permit issued by the President on November 20, 1920, modifying the previous permit under which these cables were operated. A photostat copy of the new permit was forwarded to you with the Department's instruction of January 25, 1921.

The Department appreciates the motives which have actuated the Cuban Government in suspending the landing permit of the Western Union.

The Department approves of your action in refraining from making representations to the Cuban Government on this subject except upon explicit instructions from the Department.

²⁸ See despatch no. 253, July 10, 1920. from the Chargé in Cuba, *Foreign Relations*, 1920, vol. II, p. 60.

In response to the request contained in your telegram of January 19, 1921,²⁹ the Department forwarded in the pouch on January 29, 1921, copies of the proceedings in the suit brought by the Government for an injunction against the Western Union in the District Court for the Southern District of New York.²⁹ Your attention is invited to the temporary injunction granted on January 19, 1921, and printed on pages 3 and 4 of the record.

As of possible interest in this connection, the Department also forwards two copies of a memorandum dated September 29, 1920, relative to the British cable monopoly in Brazil filed with the representatives of the United States at the International Conference on Electrical Communications.²⁹

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

811.73/560: Telegram

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

WASHINGTON, February 19, 1921—9 p.m.

102. Communicate following to F. J. Brown, former Chief Delegate to Communications Conference, Washington, from Norman Davis:

As you know I viewed with concern both from our own and the British point of view the financial loss involved in the lying idle of the Western Telegraph and Western Union cables from Brazil to off the coast of Florida. Before I leave the Department I should like to arrange some plan which will permit use of the cables by the two companies mentioned consistently with American interests. I think your cooperation which you kindly offered while in Washington will be necessary.

I am informed that the Senate, after the recent hearings, believes of great importance the handling of messages between the United States and South America by American organizations. As you know, I believe the principle is not only legitimate but very important at the present time on account of the effect on British-American relations of the criticism which otherwise is liable to arise. I see no other way to satisfy all parties. In the circumstances, therefore, to justify a landing permit for the Western Union and to terminate the present situation disadvantageous to everybody, I believe it is necessary to arrange as a condition precedent for the sale of the Barbados-Para cable to the Western Union Company and sale or lease to it also of an interport cable down the coast of Brazil which will touch the most important cities or to agree to permits being granted to Western Union to lay such cables. This would have little practical effect on the monopolistic advantages now enjoyed by the Western Telegraph Company. As for traffic there

²⁹ Not printed.

are now two to three parallel cables owned by the Western Telegraph Company all along the coast of Brazil south of Para which carry mixed American and European traffic. Provided provision is made so that the financial return remains the same a lease of one of these coastal cables to the Western Union would amount merely to a separation of this mixed traffic and its allocation between the existing cables. The Western Telegraph Company is primarily interested in communications between South America and England, Europe and Africa, and it would be hardly justified in insisting as a matter of vital interest to it on the physical handling of the United States-South American traffic provided by the suggested arrangement the financial advantages of its monopolistic position were unprejudiced until the termination of its interport monopoly. In any event the monopoly only runs for a few years and if the loss on the say three million dollar investment continues for a material time through the cables lying idle, certainly the financial advantages of the monopoly with respect to communications with the United States will be destroyed. Before getting your reactions which I hope will be favorable and the reactions through you of the Western Telegraph Company, I hesitate to press the Western Union to make the suggestion direct to the Western Telegraph Company because it might be somewhat embarrassing for them. I am very hopeful, however, that a mutually advantageous settlement can be worked out on the above lines and hope that I may have your informal cooperation. I hope you can give me your answer within two or three days.

COLBY

811.73/560 : Telegram

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

WASHINGTON, February 21, 1921—7 p.m.

107. Communicate following to F. J. Brown, former Chief Delegate to Communications Conference, Washington, from Norman Davis.

“In continuation of message of 19th instant, no decision now made regarding landing permit at Miami will permanently settle landing right problems as to connections between Western Union and Western Telegraph Companies because, sooner or later, the companies will want to extend on the west coast of South America and will want landing rights on the Isthmus of Panama and in the United States for a connecting cable. Would not a permanent working relationship be established if the Western Union owned cables to continental South America, the Western Telegraph owned cables to Europe and South America and the two companies be equally interested in the cables in Brazil and probably other points in South America? Such an arrangement should be mutually profitable, should satisfy both American and British business and enable both our governments to aid the joint enterprise. The All America Company, which owns no cable to Africa or Europe, could be protected in part by assurances from the Western Union and Western Telegraph Companies that in South America those

companies would abide by any international agreement relating to communications to which either the United States or Great Britain is a party and specifically to provisions relating to the routing of traffic; and further, that all three companies agree not to seek new or the extension of existing monopolies as against each other; and further, that the Western Telegraph agree, upon reasonable terms, to grant to the All America Company permission to enter such points in Brazil as will permit the laying of a cable from Rio to American territory. Do you think the Western Telegraph would consider such a proposal? I have not discussed this with our Companies because I first desire to get your views."

COLBY

811.73/582 : Telegram

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

LONDON, February 26, 1921—2 p.m.

[Received February 26—12:13 p.m.]

152. My 149, February 26, 11 a.m.³⁰ Foreign Office acknowledges receipt of my two communications addressed to F. J. Brown³¹ with regard to the utilization of the joint Western and Western Union cable between Brazil and the United States and adds:

"The Western Telegraph Company having carried out their part of the agreement between the two companies, His Majesty's Government are of opinion that any proposal for the modification of that agreement should be addressed to the Western Telegraph Company by the Western Union Company direct."

DAVIS

811.73/582 : Telegram

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

WASHINGTON, March 2, 1921—5 p.m.

118. Your 152, February 26th.

Please communicate following to F. J. Brown from Davis:

I am obliged to you for your interest in answering my communications and note your statement that since the Western Telegraph Company has carried out its part of the agreement between the two companies it is believed any proposal for the modification of that agreement should be addressed to the Western Telegraph Company by the Western Union Company direct. Because of your previously expressed interest and that of the British Government in the situa-

³⁰ Not printed.

³¹ See telegrams no. 102, Feb. 19, and no. 107, Feb. 21, to the Ambassador in Great Britain, *supra*.

tion, I had thought it necessary and proper to acquaint you with what I had in mind in an effort to coordinate the views of the two Governments before taking the matter up with the Western Union Company. The necessity for such a course was evident since the matter involved important governmental policies and at least the Western Union Company was not in a position to address directly any proposal to the Western Company without the approval of this Government. Since your answer indicates that the British Government has no longer its former interest in the situation, I presume no progress can be made by a further interchange of views. Without an agreement between the two governments on the larger questions of policy involved, and their concurrent support, it is not apparent to me how the companies could make any progress toward a settlement by direct negotiations.³²

COLBY

³² There was no further interchange of views.

DOMINICAN REPUBLIC

APPOINTMENT OF A COMMISSION TO DRAW UP RECOMMENDATIONS FOR A REVISION OF THE CONSTITUTION AND LAWS¹

839.00/2290 : Telegram

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

SANTO DOMINGO, January 6, 1921—11 a.m.

[Received January 7—11:10 a.m.]

1. Letter of acceptance of the five Dominicans mentioned in my cipher telegram 58, December 29, 5 p.m.,² contains the following reservations:

“First, we insist, however, that the personnel of the Commission be limited to the four former members of the Advisory Board and the present Chief Justice of the Supreme Court, Rafael J. Castillo, but in case it seems advisable to increase the number we will agree to seven. Second, that amendments to the Constitution and all reforms in laws emanate from the Commission or be submitted to it before being submitted to Congress or the Constitutional Assembly and that in case there is a difference of opinion with the Military Governor in the preparation of said projects, laws or amendments to the Constitution and no agreement can be reached, then the statements of both sides shall be submitted to Congress or the Constitutional Assembly as the case may be. Third, that the technical adviser shall not be a member of the Commission but that if you think it necessary to appoint one he shall act as adviser to Military Government whom the Commission could recognize in certain cases as a member of the committee with said Military Government.”

Military Governor answered that he could not accept these conditions and all of these five have declined to accept membership on the Commission. All of the other men as determined upon by the State and Navy Department[s] have [been] notified but no answer from them has been received as yet.

RUSSELL

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 110 *passim*.

² *Ibid.*, p. 150.

839.00/2290 : Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, *January 8, 1921—1 p.m.*

3. Your January 6, 11 a.m.

The Department has regretted exceedingly the action of the Military Governor in inviting five of the Dominicans proposed for membership in the Commission by the Department before inviting the remaining members. The action which he took was without instructions from the Navy Department or from the State Department and has resulted in placing these five Dominicans in a position where they believe they can dictate the conditions under which the Commission will function. The Department regrets even more the action of the Military Governor in stating that he could not accept the reservations made by these five members in their reply without referring the conditions proposed by them to this Government for its prior consideration.

The Department desires an immediate statement from you of your personal opinion upon the following point:

Is the refusal of the five Dominicans first approached to serve on the Commission to be accepted as final or is it based upon the refusal of the Military Governor to agree to the conditions advanced by them?

While the Department would be exceedingly reluctant to abandon the project of having the Commission composed of nine members, as stated in its December 30, 1 p.m.,³ it does not regard the insistence of the five Dominicans already invited that the Commission be limited to seven an insuperable objection. If it is established that there is unyielding objection on the part of these five to a Commission of nine, the Department would be willing to consider the elimination from the proposed Commission of Enrique Jimenez and Eliseo Espaillat. Cable the Department likewise your opinion as to the advisability of making this concession.

In regard to the second of the reservations of the five Dominicans, the Department is unable to understand why it has not already been made perfectly apparent to them that it is the intention of this Department that all proposed amendments to the Constitution and all projects of law will emanate from the Commission or be submitted to it before presentation to the Congress or to the Constitu-

³ *Ibid.*, p. 151.

tional Assembly. Furthermore, the wording of the Proclamation issued by the Military Governor ⁴ makes it clear that no amendments to the Constitution or projects of law recommended by the Commission, which are not approved by the Military Governor, shall be presented to the Congress or to the Constitutional Assembly.

In regard to the reservation concerning the appointment of the Technical Adviser, the Military Governor has already been informed that the Technical Adviser is to be in no sense a representative of the Military Governor, but rather a representative of the State Department receiving his instructions from this Department. It is not the intention of the Department that the Technical Adviser shall be a member of the Commission in the sense that he is to have a vote upon any of the amendments or projects of law considered by the Commission, but that he is to be present at all its sessions, giving the members of the Commission the benefit of his expert opinion and submitting to the Commission such proposed amendments or projects of law as may seem to him desirable. The Department is transmitting to you by the next mail, in full, the steps which it believes should be taken in the carrying out of the declared purpose of this Government to restore to the Dominicans the right of self-government.⁵ In order, however, that you may be fully advised of the intentions of the Department, there is transmitted herewith a list of the steps which it believes must be taken immediately after the Commission enters upon its duties. Briefly, these steps are:

1. Appointment by the Military Governor of a Commission of prominent Dominicans to draft a new election law; to this commission there should be attached an American Technical Adviser whose first duty it will be to prepare for the consideration of the Commission a draft of such election laws and resolutions.

2. This Commission is also to be entrusted with a general revision of the laws of the Dominican Republic and with the formulation of such amendments to the Constitution as they may deem necessary. In the revision of the law the Commission shall give preferential attention to:

- (a) Law Relating to Provinces, Municipalities and Communes;
- (b) Finance and Taxation.

3. All such laws after drafting and acceptance by the Dominican Commission, to be submitted to the Military Governor for approbation and modification if necessary.

After the draft of laws referred to under (1) and (2) are in a form satisfactory to the Military Governor, the following procedure shall be observed:

⁴ See telegram of Dec. 4, 1920, to the Minister in the Dominican Republic, *Foreign Relations*, 1920, vol. II, p. 145.

⁵ It does not appear that the instruction mentioned was sent to the Legation.

(a) Such drafts of laws as are in complete harmony with the existing Constitution of the Dominican Republic (Constitution of February 22, 1908, with amendments thereto) may be immediately promulgated.

(b) If any of the drafts of laws as approved by the Military Governor require further Constitutional amendments the Technical Adviser of the Commission shall draft such amendments and submit the same to the Military Governor with a view to their ultimate submission to a Constitutional Convention.

4. Convocation of the primary assemblies in accordance with the provisions of the new election law and in conformity with Articles 82 and 83 of the Constitution. These assemblies shall proceed to elect the electors as prescribed by Articles 84, paragraph 1, of the Constitution.

5. The Electoral College, thus elected by the Primary Assemblies, shall in accordance with Article 85 of the Constitution, proceed to elect members of the Senate and Chamber of Deputies as prescribed by Article 85 of the Constitution.

6. The Military Governor shall then convene the National Congress in extraordinary session for the sole purpose of proposing amendments to the Constitution and for the convocation of a Constitutional Convention in accordance with Articles 107 and 108 of the Constitution.

7. The Constitutional Convention having been elected in accordance with Article 109 of the Constitution, will proceed to consider the revision of the Constitution as prescribed by Articles 110 and 111.

8. The new Constitution having become effective, the Military Governor shall again assemble the National Congress in extra session, submitting to it such of the revised laws as he was unable to promulgate under sub-division 4a [3a] of this memorandum, owing to the necessity of securing Constitutional amendments in order to bring such provisions into harmony with the Constitution. In their consideration of these laws the assembly shall give preferential attention to:

- (a) Law relating to Provinces, Municipalities and Communes;
- (b) Law relating to finance and taxation.

9. Reorganization of the provincial governments in accordance with the new law relating to the provinces.

10. Reorganization of communes and municipalities in accordance with the new law relating to this subject.

11. The Military Governor shall then assemble the Electoral College for the purpose of electing a President in accordance with the provisions of the new Constitution.

12. Upon the installation of the President, the Military Governor shall surrender all executive powers assumed by him to the elected executive of the Dominican Republic.

The further steps relate to the negotiation of the Treaty believed to be necessary to give to this Government authority to assure the continued maintenance in Santo Domingo of a Government adequate

for the protection of life, property and individual liberty and such steps as may be necessary to insure the ratification of all acts of the United States in Santo Domingo during the Military Occupation.

The Department has been caused very grave apprehension by the failure to secure the prompt acceptance of the Dominicans proposed for membership in the Commission. It is possible that discreet communication by you to the five members of the Commission who have now declined to serve of the intentions of this Government, as indicated in the steps above outlined, may cause them to reconsider their decision. You should make every effort to make them comprehend the intention of this Government to take no step which is not in the interests of the Dominican people and of its desire to provide the proposed Commission with all proper authority.

Please keep the Department more closely advised of all developments in the situation and report by cable after conference with the Dominicans invited to become members of the Commission.

DAVIS

839.00/2296 : Telegram

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

SANTO DOMINGO, January 14, 1921—noon.

[Received January 16—8 a.m.]

3. Your January 8, 1 p.m. The five Dominicans were approached first because they were in the city and they stated that they would give their answer to the Military Governor at the palace next morning. Their declining to serve was not due in any way to the non-acceptance by the Military Government officer of the conditions they had made. The former Advisory Council said that as they had promised when they resigned to assist whenever called upon they felt it their duty to respond now. Archbishop told me that the conditions were made in order to give them excuse for declining as the press had become very abusive and they wanted to see how the people were going to take it. The national committee president Emiliano Tejera attacked the five in the press and the five defended themselves vigorously in a joint publication. I think that seven for the commission will be just as effective as nine. Two of the five have stated that they positively will not serve on any commission with Mario Fermín Cabral and I think that if it is contemplated to have representative of Desiderio Arias^o some one other than Cabral should be appointed. The five have promised something definite by tomorrow.

RUSSELL

^o Dominican Secretary of War in 1916, under President Jiménez.

839.00/2302 : Telegram

*The Minister in the Dominican Republic (Russell) to the Acting Secretary of State*SANTO DOMINGO, *January 23, 1921—5 p.m.*

[Received January 24—2:05 p.m.]

4. The four members of former Advisory Council and President of the Supreme Court have signified their willingness to accept membership on the Commission. . . .

RUSSELL ,

839.00/2302 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Russell)*WASHINGTON, *January 25, 1921—7 p.m.*

5. Your 4, January 23, 5 p.m.

The Department is willing to accept the recommendation offered by the Military Governor and by yourself that the membership of the Commission be limited to seven, . . .

DAVIS

839.00/2316 : Telegram

*The Minister in the Dominican Republic (Russell) to the Secretary of State*SANTO DOMINGO, *February 3, 1921—5 p.m.*

[Received February 5—9:20 p.m.]

8. Delay in selecting the other two members of the Commission has given rise to propaganda that there will be no Commission and the five have suggested that they should be authorized to commence work immediately on a study of the necessary laws and amendments to the Constitution pending the naming of the other two but no proclamation to be made until all seven have passed upon the said laws and amendments. If it is found impossible to find two others who will accept would the Department be willing to have the five constitute the Commission with a technical adviser in which case the latter should be named immediately? ⁷

RUSSELL

⁷ The Legation was informed on Feb. 15 that the Navy Department had instructed the Military Governor to appoint Judge Ostrand to act temporarily as technical adviser to the Commission.

839.00/2320 : Telegram

*The Secretary of State to the Minister in the Dominican Republic
(Russell)*

WASHINGTON, February 12, 1921—2 p.m.

Your urgent No. 10, February 10, 9 a.m.⁹

For your information: Navy Department advised this Department that Military Governor had cabled suggesting Manuel Gonzalez Marrero and Pedro Perez as last two members of Commission, and requested authorization from State Department to invite them. This Department has informed Navy Department that it approves appointments above mentioned, which authorization the Navy Department is cabling to the Military Government.

The Department has no objection to publication of fact that Commission has been appointed.

COLBY

839.00/2339 : Telegram

*The Minister in the Dominican Republic (Russell) to the Secretary
of State*

SANTO DOMINGO, February 16, 1921—5 p.m.

[Received February 17—2:15 p.m.]

11. The seven members of the Commission with Judge Ostrand met and organized for business today.

RUSSELL

ANNOUNCEMENT OF PREPARATORY MEASURES FOR WITHDRAWAL OF THE AMERICAN FORCES¹⁰

Proclamation of June 14, 1921, by the Military Governor; Dominican Opposition to the Terms of the Proclamation—Proclamation of July 27, Declaring the Intention of the United States to Persevere in the Announced Program of Evacuation

839.00/2395

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, June 7, 1921.

MY DEAR MR. SECRETARY: With reference to the conferences which we have had regarding the proposed evacuation of the military forces of the United States from the Republic of Santo Domingo,

⁹ Not printed.

¹⁰ For previous correspondence regarding withdrawal of U. S. forces, see *Foreign Relations*, 1920, vol. II, pp. 136-160, *passim*.

and the time and terms of our withdrawal, I have the honor to transmit to you herewith the draft of the proposed Proclamation to be issued by the Military Governor of Santo Domingo, outlining, for the information of the Dominican people, the steps which are to be taken in fulfillment of the plan of withdrawal agreed upon in our conferences. . . .

Believe me [etc.]

CHARLES E. HUGHES

[Enclosure]

*Draft of Proclamation for Withdrawal of American Forces from the Dominican Republic*¹¹

WHEREAS, by Proclamation of the Military Governor of Santo Domingo, dated December 23, 1920,¹² it was announced to the people of the Dominican Republic that the Government of the United States desired to inaugurate the simple processes of its rapid withdrawal from the responsibilities assumed in connection with Dominican affairs; and

WHEREAS it is necessary that a duly constituted Government of the Dominican Republic exist before this withdrawal of the United States may become effective, in order that the functions of government may be resumed by it in an orderly manner,

NOW, THEREFORE, I, _____, Military Governor of Santo Domingo, acting under the authority and by direction of the Government of the United States, declare and announce to all concerned, that the Government of the United States proposes to withdraw its military forces from the Dominican Republic in accordance with the steps set forth herein. It is the desire of the Government of the United States to assure itself before its withdrawal is accomplished that the independence and territorial integrity of the Dominican Republic, the maintenance of public order, and the security of life and property, will be adequately safeguarded, and to turn over the administration of the Dominican Republic to a responsible Dominican Government duly established in accordance with the existing Constitution and laws. To this end, it calls upon the Dominican people to lend to it their helpful cooperation with the hope that the withdrawal of the military forces of the United States may be completed, if such cooperation is extended in the manner hereinafter provided, within a period of eight months.

¹¹ On June 10 the Navy Department was requested to substitute the word "Convention" for the word "Treaty" throughout the text. The proclamation thus revised was issued June 14 by Rear Admiral Samuel S. Robison, who took office as Military Governor June 3.

¹² See telegram of Dec. 4, 1920, to the Minister in the Dominican Republic, *Foreign Relations*, 1920, vol. II, p. 145.

The Executive power vested by the Dominican Constitution in the President of the Republic shall be exercised by the Military Governor of Santo Domingo until a duly elected proclaimed President of the Republic shall have taken office and until a Treaty of Evacuation shall have been signed by the President and confirmed by the Dominican Congress.

Within one month from the date of this Proclamation the Military Governor will convene the primary assemblies to assemble thirty days after the date of the Decree of Convocation in conformity with articles 82 and 83 of the Constitution.¹³ These assemblies shall proceed to elect the electors as prescribed by Article 84 of the Constitution. In order that these elections may be held without disorder and in order that the will of the Dominican people may be freely expressed, these elections will be held under the supervision of the authorities designated by the Military Governor.

The electoral colleges thus elected by the primary assemblies shall, in accordance with Article 85 of the Constitution, proceed to elect Senators, Deputies, and alternates for the latter, and to prepare lists for the Justices of the Supreme Court, of the Appellate Courts, and the Tribunals and Courts of the First Instance, as prescribed by Article 85 of the Constitution.

The Military Governor, performing the functions of Chief Executive, will then appoint, in accordance with Article 53 of the Constitution, certain Dominican citizens as representatives of the Republic to negotiate a Treaty of Evacuation. In order that the enjoyment of individual rights may be insured, and in order that the peace and prosperity of the Republic may be conserved, the said Treaty of Evacuation shall contain the following provisions:

1. Ratification of all of the acts of the Military Government;
2. Validation of the final loan of \$2,500,000,¹⁴ which is the minimum loan required in order to complete the public works which are now in actual course of construction, and which can be completed during the period required for the withdrawal of the Military Occupation and are deemed essential to the success of the new Government of the Republic and to the well-being of the Dominican people;
3. Extension of the duties of the General Receiver of Dominican Customs, appointed under the convention of 1907,¹⁵ to apply to the said loan;
4. Extension of the powers of the General Receiver of Dominican Customs to the collection and disbursement of such portion of the internal revenues of the Republic as may prove to be necessary,

¹³ *Foreign Relations*, 1908, p. 260.

¹⁴ For correspondence relating to the loan, see pp. 854 ff.

¹⁵ *Foreign Relations*, 1907, pt. 1, p. 307.

should the customs revenues at any time be insufficient to meet the service of the foreign debt of the Republic;

5. The obligation on the part of the Dominican Government, in order to preserve peace, to afford adequate protection to life and property, and to secure the proper discharge of all obligations of the Dominican Republic, to maintain an efficient Guardia Nacional, urban and rural, composed of native Dominicans. To this end, it shall also be agreed in said Treaty that the President of the Dominican Republic shall at once request the President of the United States to send a Military Mission to the Dominican Republic, charged with the duty of securing the competent organization of such Guardia Nacional; the Guardia Nacional to be officered by such Dominican Officers as may be competent to undertake such service, and, for such time as may be found necessary to effect the desired organization, with American Officers appointed by the President of the Dominican Republic upon the nomination of the President of the United States. The expenses of said Mission will be paid by the Dominican Republic, and the said Mission will be invested by the Executive of the Dominican Republic with proper and adequate authority to accomplish the purpose above stated.

The Military Governor will thereupon convene the Dominican Congress in extraordinary session to confirm the Treaty of Evacuation referred to above.

The Military Governor will then assemble the electoral colleges for the purpose of electing a President of the Dominican Republic in accordance with Article 85 of the Constitution, and simultaneously, officials other than the Senators and Deputies elected at the first convocation of the electoral colleges, will be installed in office.

The Dominican President so elected will then take office in accordance with Article 51 of the Constitution, at the same time signing the Treaty of Evacuation as confirmed by the Dominican Congress.

Upon this ratification of the Treaty of Evacuation, assuming that through the cooperation of the people of the Dominican Republic a condition of peace and good order obtains, the Military Governor will transfer to the duly elected President of the Republic all of his powers and the Military Government will cease; and thereupon, the forces of the United States will be at once withdrawn.

The further assistance of the Advisory Commission appointed under the Proclamation of December 23, 1920, being no longer required, it is hereby dissolved, with the expression of the grateful appreciation of the Government of the United States of the self-sacrificing services of the patriotic citizens of the Dominican Republic of whom it has been composed.

839.00/2396

The Secretary of the Navy (Denby) to the Secretary of State

WASHINGTON, 8 June, 1921.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of your letter of June 7th, transmitting the draft of the proposed proclamation to be issued by the Military Governor of Santo Domingo, which conforms to the plan of withdrawal agreed upon in our several conferences.

I have directed the Military Governor to promulgate the Proclamation as outlined, and have also taken the necessary action to secure the issuance of an Executive Order providing for the \$2,500,000 bond issue, which is referred to in the Proclamation.

The Military Governor will inform me of the date and hour when he intends to promulgate the Proclamation, so that the draft of the Proclamation may be released simultaneously here and in the Dominican Republic.

I remain [etc.]

EDWIN DENBY

839.00/2399 : Telegram

The Minister in the Dominican Republic (Russell) to the Secretary of State

SANTO DOMINGO, June 14, 1921—5 p.m.

[Received June 15—3:54 p.m.]

20. Proclamation issued today and was received with a hot blast of protest from the press advising the people not to accept it as this would imply sanction of past wrongs, and it has been suggested that the people refuse to take part in the elections.

RUSSELL

839.00/2402a : Circular Telegram

*The Acting Secretary of State to the Diplomatic Representatives in Certain Latin American Countries*¹⁶

WASHINGTON, June 15, 1921—4 p.m.

By instruction of the President of the United States, the Military Governor of Santo Domingo issued today¹⁷ a proclamation addressed to the Dominican people, in substance as follows:

¹⁶ To those in Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Panama, Paraguay, Peru, Uruguay, and Venezuela.

¹⁷ The proclamation was issued June 14.

[Here follows the substance of the proclamation printed on page 835.]

Secure publication of this summary in all leading newspapers.

FLETCHER

839.00/2408a : Telegram

*The Secretary of State to the Minister in the Dominican Republic
(Russell)*

WASHINGTON, June 28, 1921—1 p.m.

14. You are instructed to obtain, at once, the widest publicity in the newspapers throughout the Republic of the following, to be issued as an official statement of your Legation:

“The attention of the Government of the United States has been drawn to the evident misunderstanding which exists in the Dominican Republic regarding the provisions of the proposed Convention of Evacuation as outlined in the Proclamation of the Military Governor dated June 14. In order that misunderstanding and misinformation may no longer continue, the following statement is made in order to insure an accurate understanding of the actual meaning and intention of the proposed Convention:

I. In carrying out the provisions of the Proclamation relative to the appointment of certain Dominican citizens as representatives of the Dominican Republic to negotiate the Convention of Evacuation with the representatives of the United States, it is the intention of the Military Government to request the Dominican Congress, as soon as it is elected, to agree upon the names of the representatives of the Dominican Republic. The persons so selected will be formally appointed by the Military Governor in his capacity as Executive *ad interim* of the Dominican Republic, to be its delegates to negotiate the Convention of Evacuation.

II. The stipulation of the Proclamation of June 14, that the Convention of Evacuation shall provide for the ratification of all of the acts of the Military Government is intended primarily to insure the recognition by the newly constituted Government of the Dominican Republic of the validity of the financial obligations incurred by the Military Government during the period in which it acted on behalf of the Dominican people. These financial obligations were incurred by the Military Government with the consent of the United States in order that funds might be obtained for the carrying out of projects which have promoted the welfare and prosperity of the Dominican people and the Government of the United States feels it necessary to satisfy itself, before its withdrawal from its present relation to Dominican affairs is made effective, that the present holders of these obligations of the Dominican Government may receive satisfactory assurances that the Dominican Government will respect these debts. The validating stipulation should not, however, be construed as conveying the meaning that the Government of the United States insists that every Executive Order issued by the Military Government dur-

ing its incumbency must continue forever unchanged in the Dominican Code. Its meaning, on the contrary, is that all of the acts of the Military Government shall be ratified initially by the newly constituted Dominican Government. After the withdrawal, the Dominican Republic will necessarily be free to amend or repeal such of those laws or acts as it may deem necessary, provided that the validity and security of outstanding obligations are not impaired.

III. That provision of the proposed Convention which would extend the powers of the General Receiver of Customs to the collection of such portion of the internal revenues of the Republic as may be necessary should the customs revenues at any time be insufficient to meet the requirements of the service of the public debt of the Republic, is, in effect, merely a further guarantee for the proper security of the final loan of \$2,500,000. Financial conditions throughout the world are at present on such an unstable basis that it is necessary in order to obtain funds at this time to give additional guarantees to those which were demanded in the past. Should the customs revenues, as is anticipated, prove more than sufficient to meet the service of the public debt of the Republic, this provision will never become operative."

HUGHES

839.00/2408a supp. : Telegram

*The Secretary of State to the Minister in the Dominican Republic
(Russell)*

WASHINGTON, July 3, 1921—2 p.m.

16. Department's 14, June 28, 1 p.m.

Department desires to have statement issued by Military Governor by direction of Government of United States.¹⁸

HUGHES

839.00/2430a

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, July 20, 1921.

DEAR MR. SECRETARY: My attention has been drawn to the telegram received by the Navy Department from Admiral Robison, dated July 18th, and numbered 1018.¹⁹ Admiral Robison recommends that there be issued in the United States by the State Department and in Santo Domingo by the Military Government, a Proclamation to the effect that the United States will only negotiate a Convention of Evacuation with plenipotentiaries duly selected by a National

¹⁸ On July 6 the Military Governor made public in a proclamation the substance of the Department's statement.

¹⁹ Not printed.

Dominican Congress elected in accordance with the existing Dominican Constitution and laws, and that notwithstanding the apparent intention of the people of Santo Domingo to refrain from voting in the proposed elections on account of their opposition to the terms of the Proclamation issued by the Military Governor on June 14, last, no change should be made in the said Proclamation.

This Department concurs, in general, in the recommendations of the Military Governor. I should therefore be glad if you would cause instructions to be sent by cable to the Military Governor to issue a proclamation "By instruction of the Government of the United States", worded in such a way as to cause as little resentment as possible, to the effect that the procedure of evacuation outlined in the Proclamation of June 14, and the terms of the proposed Convention of Evacuation had been fully and carefully considered by the United States prior to the issuance of that Proclamation, and that the Government of the United States sees no reason to make any change in either.

In the event that the Military Governor has definite reason to believe that the Dominican people will not vote in the National elections if held upon the date indicated in the Proclamation of June 14, Admiral Robison should incorporate in the new Proclamation a statement to the effect that in view of the fact that the Military Governor is advised by the leaders of the various political parties and by the prominent Dominicans with whom he has been in consultation, that the proximity of the proposed date for holding the elections makes it impossible for the several political parties to organize and to select the candidates whom each would support in the elections, the date for holding the elections has been postponed. It appears to me desirable that such postponement should at present be indefinite.

I think that the issuance of this Proclamation in Santo Domingo by Admiral Robison will be sufficient and that there is no necessity for its issuance in the United States by this Department.

Believe me [etc.]

CHARLES E. HUGHES

839.00/2423

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, July 21, 1921.

SIR: I have the honor to acknowledge the receipt of your letter of July 15, 1921,²⁰ enclosing a letter from the Military Governor of Santo Domingo in which he indicates the discrepancies existing

²⁰ Not printed.

between the Proclamation of Evacuation issued by him, and the draft of such Proclamation received through the mails after his promulgation of the draft received by coded despatch.

Among these discrepancies I only note one of any material consequence, namely, in the last sentence of the third paragraph wherein, after the word "withdrawal" should be the words "of the Military forces". The Proclamation as issued by the Military Governor, owing to this omission, lends itself to a somewhat broader interpretation of the withdrawal than was intended. However, the later phrases of the Proclamation, especially those containing the terms of the Convention of Evacuation, are sufficiently emphatic in respect to the continuation by the United States of all its rights and obligations under the Convention of 1907, and the proposed Convention of Evacuation, to prevent any confusion arising from the omission of the above words from the body of the Proclamation as issued by the Military Government. Therefore, while it does not appear necessary for the Military Governor to publish any official correction of the Proclamation as issued by him, I have the honor to suggest that the Military Governor be instructed to consider the draft of the proclamation as forwarded to him by you in mail despatch the official Proclamation of June 14th.

I have [etc.]

CHARLES E. HUGHES

839.00/2440

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 704

SANTO DOMINGO, July 28, 1921.

[Received August 10.]

SIR: I have the honor to enclose herewith a copy of the Proclamation whereby the Military Governor, in accordance with instructions received, postpones the elections called for in the Proclamation of June 14, last.

I have [etc.]

WILLIAM W. RUSSELL

[Enclosure]

Proclamation of July 27, 1921, by the Military Governor of Santo Domingo (Robison), Postponing the Elections

WHEREAS, by Proclamation of June 14, 1921, the United States Government indicated its desire and intention, with the helpful cooperation of the Dominican people, to withdraw its Military forces from the Dominican Republic, and

WHEREAS, the cooperation essential to such withdrawal can be secured only through a National Congress of the Republic chosen

by elections under the existing Dominican constitution and laws in order that it may designate plenipotentiaries for the negotiation of a Convention of Evacuation, and

WHEREAS, by Decree of Convocation of July 14, 1921 ²¹ opportunity was offered for the free expression of the will of the Dominican people by means of elections called for August 13, 1921, and

WHEREAS, under existing laws, elections wherein all Dominicans, entitled to the right of suffrage by virtue of the Constitution, may exercise such right, can be held only with the cooperation of the Juntas Superiores Directivas of the Political parties in the manner provided in the existing Election Law, and

WHEREAS, due to protests resulting from misinterpretation of the Proclamation the Juntas Superiores Directivas of the Political Parties, have permitted the time within which to comply with the provisions of the existing Election Law to expire without taking action in conformity therewith, with the result that no opportunity to cooperate is afforded the Dominican people:

NOW THEREFORE, I, Samuel S. Robison, Rear Admiral, U.S. Navy, Military Governor of Santo Domingo, acting under authority of the Government of the United States do hereby postpone the meeting of the Primary Assemblies, summoned by order of Convocation dated July 14, 1921, until such time as the success of an election may be assured. By instructions of the Government of the United States, announcement is hereby made to all concerned that the procedure of Evacuation of the Dominican Republic outlined in the Proclamation of June 14, 1921, and the terms of the proposed convention of evacuation were fully and carefully considered by the United States prior to the issuance of the Proclamation and that the Government of the United States sees no reason for any departure therefrom.

S. S. ROBISON

[SANTO DOMINGO,] *July 27, 1921.*

839.00/2459

The Secretary of the Navy (Denby) to the Secretary of State

P.D. 159-7

WASHINGTON, *August 25, 1921.*

SIR: There is forwarded herewith for the information of the Department of State a confidential report from the Military Governor of Santo Domingo dated 3 August, 1921, on conditions in Santo Domingo.

Respectfully,

EDWIN DENBY

²¹ Not printed.

[Enclosure]

The Military Governor of Santo Domingo (Robison) to the Secretary of the Navy (Denby)

2334-21 L-AMc

[SANTO DOMINGO,] *August 3, 1921.*

1. The last Quarterly Report of the Military Governor, dated July 12, 1921,²² contained a statement of general conditions in Santo Domingo with particular reference to the carrying out of the plan of withdrawal of United States forces from this Republic as announced in the Proclamation of June 14, 1921. Since the date of that Report the Department has been informed of the Dominican situation by despatch in references (a)²³ and (b)²⁴ and this letter is submitted in confirmation of these Despatches.

2. As reported in reference (a) the Military Governor with the American Minister held two conferences with the Chiefs of the four Dominican Political Parties. Their names and parties are as follows: Horacio Vasquez, of the Horacista Party; Federico Velasquez, of the Progresista Party; Ramon Baez, of the Jiminista Party; and L. F. Vidal of the Legalista Party. Upon assembling for the first conference they were informed that under the existing Election Law they were recognized as having an official status in the matter of the announced Elections and that it was in this status that they had been called together in order that they might express their views and make any requests regarding the Elections as the Military Governor desired to obtain their cooperation and participation which was absolutely necessary to assure the success of the Elections. They were requested, however, to confine themselves to matters relating to the Elections as in no other matters could they act as representatives of the Dominican people.

3. The Party Leaders showed some desire to cooperate but stated that their participation in the Elections under the terms of the Proclamation was impossible in view of the fact that the terms were not acceptable to themselves and in view of the general protests of Dominicans against these terms. The Military Governor then carefully explained to them the following points:

(a) The responsibility of the United States Government, under the Convention of 1907, for the payment by the Dominican Republic of the Public Debt and also for the payment of debts contracted subsequent to the Convention made it absolutely necessary, that, prior to the disoccupation, provisions to insure the payment of these debts be made, and that one necessary provision, in addition to the

²² Not printed.

²³ Despatch no. 1015-1745, July 1921, from the Military Governor to the Secretary of the Navy; not printed.

²⁴ Despatch no. 1018-1315, July 1921, from the Military Governor to the Secretary of the Navy; not printed.

authority vested in the General Receiver of Dominican Customs, was to insure good order and peaceful conditions in the Dominican Republic until the completion of the payment of the debts.

(b) The Proclamation expressed certain general principles consistent with and essential to the proper discharge by the United States Government of its responsibilities in connection with the Dominican Debt and the United States Government must insist that these principles be included in the convention of Evacuation. The principles are fair and can be accepted by Dominicans with all honor. The details of the terms of Evacuation would be discussed and settled by the Plenipotentiaries, United States and Dominican, and of course during these negotiations the points which are now apparently not acceptable due to some misinterpretation of the meaning and purpose of the provisions of the Proclamation would be cleared up.

(c) It would be impossible to negotiate the necessary treaty of Evacuation without Dominican Plenipotentiaries duly appointed by a Dominican Congress elected in accordance with the existing Constitution and Laws. Participation in Elections would not bind the Dominican people to carry out in full the entire procedure of the Proclamation should they find some of the terms of the Convention of Evacuation still not acceptable after negotiations. With a legally elected Congress the Dominican people would be in a far better position in the eyes of the world and for obtaining the return of their Sovereignty, as they would then have representatives to express their desires and to deal with the United States Government, while now there exists no legal body to express the will of the Dominican people.

4. The result[s] of the conferences were very satisfactory in that the majority of the objections of the Party Leaders of the three principal Political Parties were dispelled. However, they still objected to the provision concerning the Mission of American Officers to organize and train the National Police Force on the ground that the authority to be invested in the American Officers and the duration of their mission were not definitely stated and that if these officers were to be in absolute control of the Police Force they would actually be dictators of the Republic and the President would be without full authority. The Military Governor again explained that the details of this provision, authority and time necessary for organization and training of the Police Force, etc., would be settled by the negotiators, and that it was considered, with the proper cooperation of the Dominican people, an efficient Police Force could be organized and trained by the time that the Public Debt, including the last loan of two and one half millions, was paid and in this case the American Military Mission might properly end at that time with the Receivership. In this connection they were informed that the time of completion of payment of the public debt would depend on the Government Income, but that the estimated time of completion of payments were [*was*] being prepared by the Military

Government and this information would be communicated to them. The Chiefs of Parties also expressed their desire to have the President of the Republic elected simultaneously with the National Congress but it was explained to them that as the Constitution made it mandatory for the President to take office within 30 days (at the longest) after his election a situation of embarrassment would be created by having two Chief Executives, the Military Governor and the President, in Office at the same time and that it would be far better not to have the President take office until the actual time of the departure of the Forces of Occupation.

5. The second conference ended at this stage with arrangements for another conference in three days at which time the Party Leaders were to submit their views and decision after conference among themselves. In the meantime the Military Government would give them detailed information as to dates on which debts would probably be paid and Receivership ended. However, they stated that should they find it possible to participate in the Elections that of course the time for organization and preparation for the Elections by the Political Parties was insufficient and the Military Governor informed them that a request for postponement of Elections would receive favorable consideration.

6. At the end of the second conference some hope of securing participation in the Elections was entertained and the American Minister concurred in this opinion. However, the third conference did not materialize as on the day after the second conference the Chiefs of Political Parties addressed a letter to the Military Governor expressing their refusal to confer further about the Elections and giving as their reasons the intention shown by the Military Governor to adhere to the terms of the Proclamation. It is believed that their action in terminating further conferences was due in part to a despatch from Dr. Federico [*Francisco?*] Henriquez y Carvajal in Washington, to the effect that he had demanded from the State Department of the United States, the suspension of the Proclamation and such suspension would probably be made (this despatch was published in the Local Newspapers), and partly due to increasing clamor of the Press and Agitators in protest against Elections.

7. The Military Governor then made a report on the situation in reference (b) and also recommended that no further change be made in the terms of the Proclamation and that this fact be announced to the Dominican people. This recommendation was made on the ground that the principles of the Proclamation are absolutely essential to the successful discharge of the responsibility of the United States in this Republic and the sooner the Dominican people realize that there can be no change in these terms the sooner can their cooperation be obtained in effecting the disoccupation.

8. In reference (c)²⁵ the Department approved the recommendation of the Military Governor and directed that he issue a Proclamation along lines indicated in reference (c). In accordance therewith a Proclamation was issued on July 27, 1921, a copy of which is enclosed for the information of the Department.²⁶

9. Insufficient time has elapsed since the issue of the last Proclamation to judge the manner of its reception, and note its effect on the Dominican people, but it would appear that the Agitators had been lead to believe by their representatives in the United States that if they continued to protest a change in the Proclamation would result and now they appear astounded that their hopes are not to be realized. Business men and the better class of Dominican citizens appear rather unmoved and to date express neither favorable or unfavorable comment. It is hoped that now the Dominican people will realize that as there is to be no change in the plan of Evacuation it is to their best interest to lend their cooperation, in effecting a speedy withdrawal of the United States Forces from the Dominican Republic and that they will begin to organize for Elections. However, no predictions can be made at this time.

10. The Military Governor is acting in this matter in daily cooperation with the American Minister and will keep the Department informed of all developments of importance. It is his opinion that the Government now occupies a strong position having made a *bona fide* offer to the Dominican people to assist them in establishing a duly Elected Government and to withdraw U.S. forces when that Government makes reasonable provision for the payment of the Dominican Foreign Debt and the maintenance of internal order.

11. It can well afford to give the people ample time to consider this offer and when a treaty is negotiated can, I believe, so word the terms relative to the Military Mission as to secure what the United States desires without wounding the *amour propre* of the Dominicans, a most vital thing with them. To this end the treaty (with suitable provisions) should set a definite date for the termination of the Military Mission (this was the principle objection to the Proclamation of June 14, 1921).

12. With reference to the Commissioners or Plenipotentiaries for the negotiation of the convention of evacuation the following suggestions are offered:—(a) The Commission should be composed of three (3) representatives of each country; (b) The present American Minister in Santo Domingo should be the senior United States Commissioner, and the other Commissioners should be Civilians. If it is desired that the majority of the Commissioners be thoroughly

²⁵ Instruction no. 1321-1030, July 1921, from the Secretary of the Navy to the Military Governor; not printed.

²⁶ *Ante*, p. 842.

familiar with the Dominican situation, Judge James A. Ostrand, at present President of the Dominican Land Court, is suggested as a member or his services can be secured by naming him as technical adviser to the Commission; (c) The treaty should be negotiated in this city. The Dominican Commissioners would be in a freer atmosphere in Washington but they would be subject to charge of intimidation and would be out of touch with the leaders of the Dominican Congress by which the treaty must be ratified; (d) The American Minister should be ordered to Washington in the near future, for personal consultation and to receive his instructions; (e) The State Department should let it be known that he has been selected to head the American Mission and that the State Department is ready to appoint the other members as soon as the Dominican people take the necessary steps (Elections) toward selecting their representatives, and will suggest Santo Domingo City as the place for the negotiations.

13. It is deemed proper to state here that the above recommendations relating to the personnel of the Commission are made without consulting either the American Minister or Judge Ostrand, and without their knowledge. They are recommended because it is believed that they know more about the situation here and about the Dominican people, their passions, prejudices, or beliefs than any other men who can be selected, and moreover are as nearly in the confidence of the leaders here as any one can be.

14. In this connection it is deemed pertinent to quote the following from the report of the United States Commission of 1914 to indicate the extreme difficulty of reaching any agreement with this very suspicious people:

“The people were intensely desirous of reforms and there were individuals having little or no conception of the significance of proposed innovations who had excited each other into a popular conviction that the local Government would never grant them (and were ready to believe that the United States was also indifferent in its attention [*attitude*] toward reforms and even insincere in its repeated professions)”.

“These (conferences) were consumed with alternating advances toward the desired end and useless speculative discussions of remote and inconsequential possibilities, and refinements, such as the typical Dominican loves to indulge in, and in which he is at his best. They were not useless however in that they permitted the Commission to carry out a definite policy which was that of a general acquiescence in the drift of things listening always courteously and interestedly and then putting forward a desired concession, (sometimes only temporarily to advance it again upon occasion) until finally after uneven intervals the points arrived at were won. . . .²⁷ In other

²⁷ Omission indicated in Admiral Robison's despatch.

words the Commission was able to lead indefinitely but did not try to drive and does not believe it can be done successfully with these people in such cases ”.

15. As intimated elsewhere the absence of an overflowing Treasury and the necessity for strict economy makes the assumption of Government here more difficult (less attractions [*attractive?*] to a Dominican Regime) and the people, with business already bad, are not as keen for a change as might otherwise be the case. The demand for unconditional withdrawal has not much real support.

16. The most violent and persistent of the protestors have already injured themselves in the eyes of the majority by the intemperance of their language and demands, and are repudiated by the sensible people.

17. Patient adherence by the United States to the terms and principles set forth in the Proclamation of June 14, 1921, is recommended as the surest means of reaching an agreement, and this idea is indicated in the Proclamation of July 27, 1921, copy of which is enclosed.^{27a}

S. S. ROBISON

839.00/2450

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 722

SANTO DOMINGO, *November 5, 1921.*

[Received November 20.]

SIR: I have the honor to forward herewith for the information of the Department a copy of the Quarterly Report of the Military Governor of Santo Domingo for the period July 1, 1921 to September 30, 1921.

I have [etc.]

WILLIAM W. RUSSELL

[Enclosure—Extract]

Quarterly Report of the Military Governor of Santo Domingo (Robison)

3227-21 L-RWR

[SANTO DOMINGO,] *17 October, 1921.*

Political Situation. There has been little change in the outward attitude of the Dominican people in their non-acceptance of the announced terms of withdrawal of United States Forces from the Dominican Republic as reported in reference (g)²⁸ except that the

^{27a} *Ante*, p. 842.

²⁸ Report of Aug. 3, 1921, from the Military Governor to the Secretary of the Navy, p. 844.

volume of public protest has diminished somewhat, due partly to exhaustion of non-constructive criticisms and protests based on intentional misinterpretation of the terms of the Proclamation of June 14, and partly to the increase of distress in economical conditions occupying the people's minds to the exclusion of other subjects. As stated in reference (g), Dominicans appeared dumbfounded by the issuance of the Proclamation of July 27th, announcing the intention of the United States Government to adhere to the terms of the Proclamation of June 14th, and postponing the announced elections indefinitely. The agitators considered that by this move they were deprived of their greatest opportunity to express their protest and non-acceptance by absolute abstinence from voting at the elections. Since the issuance of the last Proclamation responsible Dominicans have become convinced of the whole-hearted desire of the United States Government to withdraw from this Republic and they realize that the statements made in the Proclamation of July 27th puts the matter clearly up to them, in other words that the United States is now waiting and it is the Dominicans' move. . . .

However, while still maintaining their attitude of non-acceptance, the three important political parties—Progresistas, Partido Nacional and Unionistas—have begun and are completing their organization and are putting their forces in readiness for elections in case a change in the Proclamation favorable to the interests of the Dominican Republic is made. In this connection it should be reported that the chiefs of the political parties and many responsible citizens have informed the Military Governor that they and probably all other responsible citizens realize the necessity of and concur in all the principles contained in the Proclamation of June 14th, but that they object to the wording of these terms in that their vagueness might give rise to a condition similar to that now existing in Haiti, this with reference only to the lack of a definite statement of the authority and responsibility of the Mission of American Officers for instruction of the Dominican National Police Force. After the reorganization of the political parties was well under way the Military Governor held interviews separately with the chiefs and important members of the political parties and the following transcript of notes from an interview with Mr. Federico Velazquez H., President of the Board of Directors of the Progresista Party is typical of all interviews:

“Mr. Velazquez was asked by the Military Governor to lend the cooperation of the Progresista Political Party in an effort to discourage and suppress banditry in the Eastern District and his opinion was asked on the advisability of the chiefs of all political parties sending communications to the local political committees,

instructing them to advise their constituents not to encourage banditry in any way as a means of retaining national sovereignty and also to refrain from lending any moral or material assistance to the bandits and to cooperate and help the Military Forces, both Dominican and American, in this suppression. Mr. Velazquez expressed the opinion that the bandits on the whole were ordinary robbers and a bad element for the interests of the Dominican Republic, that they were using the National cause as a cloak for their malicious activities, that they should all be killed, that the best means of suppressing them was by a small nucleus of Guardia and American forces cooperating with the Municipal Police and other Dominicans in each locality, that it was absolutely necessary to enlist the aid of Dominicans, but that he was doubtful as to the value of the cooperation of the political parties.

Mr. Velazquez was questioned as to the political situation at present and the chances of an early compliance on the part of Dominicans with the steps of the Proclamation. In return he asked if the Military Government was waiting for the Dominican people to announce their readiness for elections and he was shown the statement contained in the last Proclamation issued by the Military Governor to the effect that the elections were postponed until their success might be assured. In reply to a question he stated that all political parties were now reorganizing their forces but not with the definite idea of requesting elections under the present Proclamation without any modifications and he stated that, while he realized the necessity of all the principles of the Proclamation, he did not agree with the wording and thought that several modifications were necessary in order to preclude certain conditions which might exist under the present wording of the terms. One of these conditions, he stated, was the abnormal situation which might exist during the negotiations when there would be a duly elected Dominican Legislative Body functioning at the same time with a chief executive appointed by the American Government. He was informed that such a condition could not arise as the Military Government would continue in full force during all negotiations and a Dominican Congress would not function for any other purpose than the two duties expressed in the Proclamation. He was apparently satisfied with this explanation. Another objectionable point raised by Mr. Velazquez was the responsibility of the head of the Guardia appointed by the President of the United States as to whom he would be responsible to for his actions and whose orders he would obey. He considered it advisable that these two points be cleared up by a modification of the Proclamation. In reply to a question he stated that he did not believe the officers of the American Mission should be amenable to Dominican Courts but that they should obey the orders of the President of the Dominican Republic and be responsible to him to a certain extent for their actions. He was informed that all officers in the United States Military Service are responsible at all times to the United States Government for the consequence of their acts and their good behavior and that any disobedience to Dominican Laws or any improper performance of duty are offenses for which they would be tried by the United States Government by General Court Martial and that any complaints against the officers of the Mission might well be made by the President of the Dominican Republic to the American

Minister and the American Minister in turn could make necessary reports and requests to the United States Government, that a Court Martial consisting of American Officers might easily be sent to this Republic for trial of any American Officer in the American Mission. He was further informed that the matter of authority and responsibility of the American Mission were subjects of instruction of the two governments to the negotiators to fix during their negotiations, that he might well feel assured that the United States Government would send none but the highest type of officers to this Republic for instruction purposes, as the honor and the reputation of the United States and the Navy and Marine Corps would be involved. However, if the political chiefs considered that it was necessary that a specific statement be made to the effect that the American negotiators would be specially instructed as to the responsibility of the American Mission to be fixed in their negotiations, it might possibly be done, but that it was not considered essential by the Military Governor, and further that in carrying out the Proclamation and in the negotiation of a Convention good faith on both sides is essential. Mr. Velazquez stated that he was preparing a letter setting forth the objectionable points of the Proclamation but that he did not wish to publish it as he did not desire to increase the present difficulties and agitation. He was requested by the Military Governor to present his views on the Proclamation, setting forth at one time all points which he thought should be cleared up.

In conclusion, Mr. Velazquez stated in answer to a question that if it was decided to hold elections it would probably require no more than two or three months for the political parties to be ready after the first notice of the election was made. He announced his intention to confer with General Horacio Vasquez, Chief of the 'Partido Nacional', concerning the points raised in the preceding interview."

Note: In connection with the above interview, the Military Governor has received an authentic report that Mr. Velazquez has sent a written communication to his constituents stating that elections would probably be held in the near future and calling on all his constituents to support his party when called. He also expressed a personal greeting to the recipient with an additional request that he use all of his influence, which was known to be great, in his (Velazquez') interest and in the interest of his party.

In all of these interviews the Military Governor has tried to emphasize the fact that participation in elections does not bind Dominican people in any way to the proposed Treaty terms, but they will be free to cease negotiations in case the negotiators find it impossible to reach an agreement, and pointed out that, as the Dominican Congress will be controlled by the party gaining the election, such party will be responsible to the Dominican people for negotiating a treaty favorable to the best interests of the Dominican Republic.

The above seems to indicate a slightly changing attitude on the part of responsible citizens in favor of carrying out the terms of the Proclamation as the only means of regaining their national sovereignty and it is probable that they desire an excuse for a change of their announced intention not to vote. When the situation has developed more fully with the probability of an expressed desire of elections made by the political leaders, the Military Governor may be in a position to make certain pertinent recommendations as to a statement to be issued to exactly meet the requirements of the case but no action on the part of the United States Government is recommended at this critical time. In this connection the Military Governor wishes to emphasize the fact that he still remains firm in his conviction that no changes should be made in the principles of the terms of the Proclamation for the reasons that these principles are consistent with and absolutely essential to the proper discharge by the United States Government of its responsibilities in the Dominican Republic and for the additional reason, as indicated above, that all responsible Dominican citizens realize the necessity of and concur in these principles. However, there are certain facts in regard to the present situation that must be constantly borne in mind; the present distressing economical conditions in the Dominican Republic with constantly diminishing government revenues does not make control of the government attractive to the Dominican politicians at the present time; the balance of power between the three important Dominican political parties is such that no one party can win an election and each party realizes that success can only be assured by its coalition with another party; the change of any wording of the Proclamation or the issuing of any statement in regard thereto will certainly meet with Dominican distrust and protest unless such statement or change is in accordance with the wishes of leading and prominent Dominicans here or unless they have been prepared in such a manner that its proper reception by the Dominican people has been assured.

The Military Governor is cooperating with the American Minister and trying to keep constantly in touch with the Dominican viewpoint and attitude in his endeavor to persuade the Dominican people to take the first step towards complying with the Proclamation. He renews his former recommendation that patient adherence by the United States to the terms and principles set forth in the Proclamation of June 14, 1921, is the surest means of reaching an agreement. The Military Government is in readiness to call and hold a fair election at any time that the Dominican people may desire to vote, all of the preliminary work having been done.

FINANCIAL DIFFICULTIES OF THE MILITARY GOVERNMENT²⁹

Approval by the United States of a Loan of \$2,500,000 for Public Works—
Refusal to Approve a Further Loan of \$7,500,000—Approval of the Issue
of \$500,000 of Certificates of Indebtedness

839.51/2166

*The Secretary of the Navy (Daniels) to the Acting Secretary of
State*

Op-13

16870-315:11

WASHINGTON, December 21, 1920.

SIR: I have the honor to forward herewith a communication from the Military Governor of Santo Domingo,³⁰ requesting the consent of the United States Government to increase the public debt of the Dominican Republic in the amount of ten million dollars pursuant to the provisions of the American-Dominican Convention of 1907 providing for the assistance of the United States in the collection and application of the customs revenues of the Dominican Republic, under date of February 8, 1907.³¹

The Navy Department recommends the approval of this request, as it is considered that the public works which have been started by the Military Government as essential to the commercial and educational development of the Dominican Republic, should be continued as projected in the interests of the people of Dominica irrespective of any arrangements that may be made as to the future administration of the government of that Republic. It is, of course, assumed that the United States will continue such control of the financial administration of the Dominican Republic as will insure that the proceeds of the proposed loan will be properly applied to the public works projected and also to provide for the payment of the interest and principal of the proposed bond issue.

Yours truly,

JOSEPHUS DANIELS

839.51/2166

*The Acting Secretary of State to the Secretary of the Navy
(Daniels)*

WASHINGTON, January 7, 1921.

SIR: I have the honor to acknowledge the receipt of your letter of December 21, 1920, forwarding a communication from the Military Governor of Santo Domingo, requesting the consent of the United

²⁹ For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 132 *passim*.

³⁰ Not printed.

³¹ *Foreign Relations*, 1907, pt. I, p. 307.

States Government to increase the public debt of the Dominican Republic in the amount of ten million dollars, pursuant to the provisions of the American-Dominican Convention of 1907 providing for the assistance of the United States in the collection and application of the customs revenues of the Dominican Republic, under date of February 8, 1907. I also note that the Navy Department recommends the approval of this request as it is considered that the public works which have been started by the Military Government are essential to the commercial and educational development of the country and should be continued as projected in the interests of the people of the Dominican Republic, irrespective of any arrangements which may be made as to the future administration of the Government of that Republic.

In reply, I have the honor to state that this Department regrets that it is unable to approve an increase of the public debt of the Dominican Republic of ten million dollars at this time, in view of the fact that by virtue of the Proclamation issued on December 23rd last,³² the Government of the United States has committed itself to initiate at once the preliminary steps looking toward a rapid withdrawal of its control in the Dominican Republic, to which end a Commission is to be appointed to revise the laws and Constitution of that country, and the Department must hesitate therefore to take any steps which might tend to impair the good faith of that Proclamation, and so militate against the success of this Commission.

The Department of State, however, after discussing this matter with the Financial Representative of the Military Governor has observed that a distinction may be taken between completing Public Works already begun and inaugurating new enterprises of this sort in the Dominican Republic, and considers it highly desirable to carry out Public Works of the former category for which a new bond issue of five million dollars would suffice, this proposed issue to be amortized in 1925, and involving no change in the American-Dominican Convention of 1907, nor in the life of the Receivership of the Dominican Republic, since the payments pledged would not be deducted by the General Receiver of Customs but would be paid directly from the Treasury of the Dominican Government to the fiscal agent of the loan.

Before arriving at any final decision, however, in the above connection, and since the Commission is shortly to meet in Santo Domingo, this Department deems it expedient that the question of the advisability of a new five million dollar bond issue for the completion of Public Works already begun in the Dominican Republic, should be placed before the Commission by the Military Governor

³² See telegram of Dec. 4, 1920, to the Minister in the Dominican Republic, *ibid.*, 1920, vol. II, p. 145.

for discussion with it, to the end that the Commission may concur in the advisability of the loan.

I have the honor, therefore, to request that the Military Governor be informed by the Navy Department of the sense of the above, and that he should advise this Department through the Navy Department of the result of his endeavors in this relation.

I have [etc.]

NORMAN H. DAVIS

839.51/2161

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

No. 650

SANTO DOMINGO, *January 9, 1921.*

[Received January 22.]

SIR: I have the honor to report that the government is facing a rather serious financial crisis as regards available surplus for expenditures outside of the budget appropriation for administration.

The Convention funds for Public Works, on deposit with the Guaranty Trust Company of New York, have all been exhausted, and it has been found necessary to close down practically all work on projects under way. This means that hundreds of Dominicans will be thrown out of employment to face the hard times already existing on account of extremely low prices for the chief native exports—sugar, tobacco and cacao. This will create a difficult situation, as the working classes have been contented and prosperous under our military occupation, and if unemployed now can be easily influenced by this anti-American propaganda. In fact a crisis of this sort is just what the agitators are hoping for in order to place the blame for everything on the Military Government.

The budget for 1921 has just been prepared on the basis of a revenue of \$11,631,400—customs revenues, \$6,500,000, and internal and other revenues, \$5,131,400. The General Receivership of Customs states that the estimate for customs revenue is entirely too high, and that the maximum will not be over \$4,500,000. There is an item in the budget for \$800,000, interest on a new proposed loan of \$10,000,000. I think the sentiment in the Republic is absolutely adverse to the floating of a new loan. Several weeks ago the Military Government sent telegrams to all the Chambers of Commerce and Municipalities inquiring whether they desired a continuance of road building and other public improvements. All replied that they were in favor of these projects, but that if it meant the floating of a loan they were absolutely adverse.

Internal revenues will probably not fall off, and the tendency is for an increase. The income from the new land tax is estimated at about \$1,000,000, payable in June of this year, but collection cannot be enforced until the expiration of two years. A great many land owners will probably hold off the payment of taxes hoping for a retirement of the occupation, and an abolishment of the tax, or some compromise with a native government.

The revenues for 1919 and 1920 were as follows:—

	<i>Customs</i>	<i>Internal Revenue</i>
1919	\$4,457,393	\$3,131,499
1920	6,273,967	4,188,172

I am not forwarding the budget as published, as it will probably have to be changed.

I have [etc.]

WILLIAM W. RUSSELL

839.51/2165

*The Acting Secretary of State to the Secretary of the Navy
(Daniels)*

WASHINGTON, *January 28, 1921.*

SIR: I have the honor to acknowledge receipt of your letter of January 22,³⁴ transmitting a letter from Lieutenant Commander Arthur H. Mayo, designated as Special Financial Agent of the Dominican Republic, in which is set forth the immediate financial needs of the Dominican Republic in prosecuting the public works' program now in process of completion.

The Department of State concurs in the opinion expressed by the Navy Department that the flotation of a loan of \$5,000,000 by the Dominican Government would be of benefit to the Dominican people and trusts it may find itself able eventually to give its approval to the flotation of this loan. For the reasons already communicated to the Navy Department, it is not able, however, at present, to authorize the loan.

Under these circumstances, it is necessary to proceed upon the assumption that the certificates of indebtedness which the Military Government desires to issue will be redeemed at maturity and that the interest charges thereon will be met from the ordinary revenues of the Republic. The Department notes that the Military Governor states that by the exercise of strict economy the appropriations carried in the budget for 1921 may so be cut as to admit of the segrega-

³⁴ Not printed.

tion from the receipts from internal revenue of a sufficient sum to redeem certificates in the amount of \$1,200,000, and to meet the interest charges thereon.

The Department of State, therefore, approves the issuance by the Military Government of certificates of indebtedness to a total of not over \$1,200,000, to bear a rate of interest not to exceed 8% for a period of six months, as a temporary measure, upon the understanding that these certificates are to be redeemed in the manner above set forth, unless the \$5,000,000 loan shall have been floated prior to their maturity.

I have [etc.]

NORMAN H. DAVIS

839.51/2192

*The Military Governor of Santo Domingo (Snowden) to the Secretary of the Navy (Denby)*³⁵

SANTO DOMINGO, *March 28, 1921.*

1. Referring to references, copies of which are appended,³⁶ I have to renew my request for the consent of the United States Government for the Military Government to contract a loan of five million dollars (\$5,000,000.00) on behalf of the Dominican Republic for the completion of the public works still unfinished by this government.

2. These works should be completed before the turning over of the government of the country to the Dominican people takes place, as projected in the Proclamation of December 23, 1920. Attention is invited to the loss of prestige and the unfortunate showing made by the uncompleted condition of these works, which are so necessary to the well-being of the Dominican people, notably the main public road across the island, and other main roads, harbor improvements, etc.

3. The rather sudden decision to prepare to turn over the government to the natives finds the Military Government with these works to be completed before the turning over process can be properly consummated.

4. The Department of State is now awaiting the submission of this projected loan to the Consulting Commission recently appointed under the provisions of the Proclamation of December 23, 1920, before arriving at a final decision in the premises.

5. Attention is invited to a confidential letter from the acting technical adviser to the Consulting Commission, copy enclosed marked (a), showing that it is not advisable to lay this question before the commission because for political reasons it will surely refuse

³⁵ Document bears the notation: "For State Department."

³⁶ Enclosures not printed.

its approval. The Commission has besides published in the local press a statement that it has no cognizance of the loan and would not approve it in any case, translation of statement enclosed marked (b).

6. I beg, therefore, to renew my request for the consent of the United States Government to the increase of the public debt of the Dominican Republic in the amount of five million dollars, pursuant to the provisions of the American-Dominican Convention of 1907, providing for the assistance of the United States in the collection and application of the customs revenues of the Dominican Republic.

7. Attention is invited to the fact that this loan would be amortized and paid from the current revenues of the Government and would not interfere with the payment of the loans of 1908 or 1918,³⁷ which by existing provisions will be paid off, the first by 1924 instead of 1958, or 34 years before due, and the second (of 1918), due in 1938, will be paid off by December 31, 1922, or 16 years before due.

8. The tables contained in reference (c) have been brought to date in accordance with the actual revenue for 1920 and the reduction budget placed in effect and, as revised, are given below.

PUBLIC DEBT

\$20,000,000 CUSTOMS ADMINISTRATION LOAN OF 1908 DUE 1958, AS OF JANUARY 31, 1921

Bonds issued	\$20,000,000.00	
Bonds purchased and held "alive" in sinking fund	\$10,678,250.00	
Bonds in Depository Account	49,500.00	
Cash balance in Sinking Fund January 31, 1921	274,014.08	
		11,001,764.08
Balance required to redeem issue	\$8,998,235.92	

\$4,161,300 BOND ISSUE OF 1918 DUE IN 1938, AS OF FEB. 28, 1921

Bonds issued	\$4,161,300.00	
Bonds redeemed to Feb. 28, 1921	1,628,850.00	
Balance	\$2,532,450.00	
Cash in Sinking Fund—Feb. 28, 1921	682,767.92	
Balance required to redeem issue	\$1,849,682.08	

RECAPITULATION OF DEBT

Balance required, 1908 Bond Issue	\$8,998,235.92
Balance required, 1918 Bond Issue	1,849,682.08
Total Public Debt	\$10,847,918.00

9. The following tables give the estimated amortization for the outstanding issues and are based on customs receipts for 1921 of \$4,500,000 (\$1,700,000 less than 1920) and on receipts for 1922 and

³⁷ For correspondence concerning the 1918 loan, see *Foreign Relations*, 1918, pp. 371 ff.

future years of \$6,200,000 (equal to receipts of 1920) which estimates will be seen to be conservative and likely to be exceeded.

\$20,000,000 BOND ISSUE OF 1908 DUE 1958

Assets in Sinking Fund, January 31, 1920	\$11,001,764.08
Balance outstanding	8,998,235.92
Total	\$20,000,000.00

ESTIMATED AMORTIZATION

Feb. 1, 1921, Interest on \$10,678,000 Bonds in Sinking Fund "alive"	\$266,950.00
Aug. 1, 1921, Interest on \$10,945,000 Bonds in Sinking Fund "alive"	273,625.00
From 1921 Customs Revenues of \$4,500,000 January to December	950,000.00
Feb. 1, 1922, Interest on \$12,168,000 Bonds in Sinking Fund "alive"	304,200.00
August 1, 1922, Interest on \$12,473,000 Bonds in Sinking Fund "alive"	311,825.00
From 1922 Customs Revenues of \$6,200,000 January to December	1,800,000.00
Feb. 1, 1923, Interest on \$14,584,000 Bonds in Sinking Fund "alive"	364,600.00
Aug. 1, 1923, Interest on \$14,948,000 Bonds in Sinking Fund "alive"	373,700.00
From 1923 Customs Revenues of \$6,200,000 January to December	1,800,000.00
Feb. 1, 1924, Interest on \$17,121,000 Bonds in Sinking Fund "alive"	428,025.00
Aug. 1, 1924, Interest on \$17,549,000 Bonds in Sinking Fund "alive"	438,725.00
From 1924 Customs Revenues of \$6,200,000 January to December	1,800,000.00
Total	\$9,111,650.00

or \$113,415.00 more than required. Since the bonds are being purchased for the Sinking Fund in the open market at prices in the neighborhood of seventy-eight (78) it will be seen that the figures given above will actually represent a much greater value when converted from cash into bonds and that therefore, naming December 31, 1924, as the final redemption date of this loan is conservative.

\$4,161,300 BOND ISSUE OF 1918 DUE 1938

Balance outstanding on Mar. 1, 1921	\$1,849,682.08
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ESTIMATED AMORTIZATION

From 1921 Customs Revenues of \$4,500,000 Amortization provided for by Executive Order 193 ³⁸ by drawing	\$208,000.00
From 1921 Customs Revenues extra amortization provided for by Executive Order 272 ³⁹ —by purchase in open market	450,000.00
From 1922 Customs Revenues of \$6,200,000 amortization provided for by Executive Order 193 by drawing	208,000.00
From 1922 Customs Revenues extra amortization provided for by Executive Order 272—purchase in open market	960,000.00
Total	\$1,826,000.00

³⁸ *Foreign Relations*, 1918, p. 377.

³⁹ *Ibid.*, 1919, vol. II, p. 148.

In view of the fact that purchases in the open market are being made at prices below par it is evident that the entire issue will be redeemed by December 31, 1922.

10. Revenue released by final amortization of above loans.

December 31, 1922—\$1,168,000 per annum (neglecting interest) by final amortization of Bond Issue of 1918.

December 31, 1924—\$2,800,000 per annum (including interest charge of \$1,000,000 per annum) by final redemption of Bond Issue of 1908.

It is therefore still practicable to provide for the amortization of the proposed serial bond issue as indicated in reference (c) which was as follows:

December 31, 1923	\$1,000,000.00
December 31, 1924	1,000,000.00
December 31, 1925	3,000,000.00

11. There follows a statement showing the actual revenue collected during 1920 and a very conservative statement of the estimated income for 1921 and the budget appropriations for 1921. These have been reduced from the figures given in reference (c) in order to make allowance for present economic conditions and the unsettled condition brought about by the Proclamation of December 23, 1920. It is confidently expected that the receipts will exceed those shown. It will be noted that the first estimate for the tax on imports and exports has been reduced by two million dollars and that the item of \$600,000 to be derived from the tax on the income of corporations and commercial associations has been eliminated since it is not now considered wise to place this new tax in effect at the present time.

<i>Source</i>	<i>Actual Income</i>
Import, export duties; Port Charges	\$6,273,741.24
Consular Fees	150,536.30
Wharfage Charges	244,145.10
Internal Revenue on Alcohol Production	⁴⁰ 874,478.36
Internal Revenue on Documents	148,768.36
Internal Revenue on Domestic Products	452,864.86
Postage Stamps	97,508.38
Telegraph, Telephone & Radiography	108,989.08
Rentals	2,816.64
Public Sales	4,028.52
Registry Fees	42,203.77
Post Office Boxes	5,163.65
Trade Marks	2,385.00
Interest on Deposits, etc	99,026.21
Road Tax, Executive Order No. 101	37,218.31
Miscellaneous Receipts	114,535.96
Fidelity Fund	**8,428.17
Fines	28,737.10
Surcharges and Transfers of Licenses	8,450.79
Central Dominican Railway	53,032.49
License Tax	743,181.76
Property Tax	1,011,002.09
Total	\$10,494,386.35

⁴⁰ Should read "874,478.91".

** Actual collections from this source were \$15,453.28 but losses were paid amounting to \$23,881.45, making a deficit of \$8,428.17 instead of an excess for use as Government income. [Footnote in the original.]

ESTIMATED RECEIPTS 1921 (REVISED)

Import, Export Duties; Port Charges	\$4, 500, 000. 00
Consular Fees	150, 000. 00
Wharfage Charges	200, 000. 00
Internal Revenue on Alcohol Production	800, 000. 00
Internal Revenue on Documents	140, 000. 00
Internal Revenue on Domestic Products	450, 000. 00
Postage Stamps	100, 000. 00
Telegraph, Telephone and Radiograph	100, 000. 00
Rentals	2, 800. 00
Public Sales	4, 000. 00
Registration Fees	42, 000. 00
Post Office Boxes	5, 100. 00
Trade Marks	2, 300. 00
Interest on Deposits, etc	40, 000. 00
Road Tax	37, 000. 00
Miscellaneous Receipts	7, 500. 00
Fidelity Fund	5, 000. 00
Fines	28, 000. 00
Surcharges and Transfer of Licenses	8, 000. 00
Dominican Central Railway	
License Tax	740, 000. 00
Property Tax	1, 100, 000. 00
Total	\$8, 461, 700. 00

DEDUCTIONS FOR DEBT CHARGES, ETC.

Interest and Amortization \$20,000,000 Loan	\$1, 950, 000. 00
Interest and Amortization 1918 Bonds	748, 000. 00
5% allowed by Dominican-American Convention to Receiver- ship of Customs for collection expenses	225, 000. 00
Personal Fees as per Law of Customs & Ports	30, 000. 00
60% of funds collected in accordance with Road Law for special work on roads	22, 200. 00
40% of funds collected in accordance with Road Law for special work on Municipal Roads	14, 800. 00
Art. X, Law of Customs on Imports and Exports	3, 000. 00
For probable reimbursements of customs duties paid in excess	7, 500. 00
For reimbursements of Internal Revenue paid in excess	7, 500. 00
For reimbursement of duty on goods of Military Forces	3, 500. 00
For Municipalities as per property Tax Law	580, 000. 00
For Municipalities, 1920	125, 000. 00
Reserve for Public Works	700, 000. 00
Reserve for interest on new \$5,000,000 Bond Issue	400, 000. 00
Total	\$4, 816, 500. 00
Total Receipts	\$8, 461, 700. 00
Total Expenditures	4, 816, 500. 00
Balance	\$3, 645, 200. 00

REDUCTION BUDGET 1921

Legislative Power	\$3, 400. 00
Executive Power	100, 000. 00
Judicial Power	550, 000. 00
Interior and Police	675, 000. 00
Health and Charities	100, 000. 00
Foreign Relations	67, 500. 00
Finance and Commerce	685, 840. 00
Agriculture and Immigration	130, 000. 00
Development and Communications	480, 000. 00
Justice and Public Instruction	850, 000. 00
Total	\$3, 641, 740. 00

Available	\$3, 645, 200. 00
Reduction Budget 1921	3, 641, 740. 00
Surplus	\$3, 460. 00

Note: It should be noted that under "Deductions, etc.," appear deductions to provide for interest on a \$5,000,000 Bond Issue and a reserve for Public Works sufficient to cover contract payments on works under private contract and certain equipment, the purchase of which was contracted for in 1920.

12. The amount of the loan now proposed, \$5,000,000, would be expended within a twelve months' period and would permit all projects, upon which work has been commenced, to be finished.

13. Attention is invited to the fact that the program does not extend to future needs. All projects listed thereon are urgently needed at the present time. Commercial, political and military reasons urge the completion of all roads and port improvements. The present lack of communication has long been a barrier to progress and the separation of the northern and southern sections of the Island and the sectional feeling caused thereby has been the underlying cause of many revolutions.

14. The politicians oppose the loan principally for the reason that they are unalterably opposed to anything that will add to the prestige of the United States with the people. If the public works be completed, our occupation of Santo Domingo will be justified in the minds of the Dominican people, the prestige of the United States enhanced, and a lasting monument to the friendly occupation of the Republic by the United States left behind us—something that cannot be dissipated in a few months, as perhaps can other accomplishments of the occupation which are less tangible.

15. It is believed that a brief, practical consideration of the situation will convince the State Department of the necessity of insuring without delay the completion of the public works. The need of these works in Santo Domingo is extreme. If abandoned, the main highway designed to cross the Island will remain uncompleted—only 3½ kilometers remain to be cleared of forest, 17½ kilometers still to be graded, and approximately 42 kilometers to have the macadam top applied. Roads leading only into the tropical forest would be subject to rapid deterioration from lack of use, buildings partially completed are subject to rapid deterioration in this climate. Approximately \$6,000,000 has been invested in these partially completed works—\$3,000,000 of which was appropriated from the "trust funds for public works" deposited in the Guaranty Trust Company, and \$3,000,000 from the savings made by the Military Government on Administration expenses. To stop or further delay the completion of the works would mean that in a comparatively short time the value of the construction thus far accomplished would be entirely lost.

16. The question of Dominican politics should not be allowed to enter into the decision of this matter as experience has shown the unlikelihood of any useful enterprise being carried to a successful conclusion if such influences be permitted to be brought into play.

17. Lieutenant Commander Arthur H. Mayo, Supply Corps, U.S. Navy, the officer administering the affairs of the Department of State of Finance & Commerce, will carry this letter to Washington. His credentials as the Special Financial Representative of the Dominican Republic are already on file in the State Department. He has full authority to act for the Military Government in this matter and will consult with and supply any information that the State Department may desire.

THOMAS SNOWDEN

839.51/2190

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 682

SANTO DOMINGO, *May 9, 1921.*

[Received May 25.]

SIR: With reference to my Nos. 650 of January 9,⁴¹ and 655 of February 4,⁴² I have the honor to report that the financial crisis referred to has become very serious. For the month of April there was a deficit of \$400,000. The Military Governor has been compelled to reduce employ es by over 60%, in all of the Departments. This reduction is not made by discharging the employ es, but by giving them leave of absence for twenty days in each month without pay.

It is expected that there will be considerable increase in the revenues for June and July, but it is difficult to see how collections can amount to anything like what they were for the corresponding months of 1920, given the present world wide financial depression. There is no market for the principal products, sugar, cacao, coffee, tobacco and honey, and these products are not being exported. The embargo on textile goods will be lifted on June 30, but relief, if any, from this will not be felt at once, as goods ordered in July could not reach here before November.

I am enclosing herewith a statement of receipts for 1920, and for the four months of 1921, including April, and it is almost sure that the receipts for this month will fall below those for last month.

The press criticism on this financial crisis is very bitter, and the administration is getting all the blame therefor.

I have [etc.]

WILLIAM W. RUSSELL

⁴¹ *Ante*, p. 856.

⁴² Not printed.

[Enclosure]

Report on Dominican Customs and Internal Revenue for 1920 and the First Four Months of 1921

	Customs	Internal Revenue	Total
[1920]			
January-----	\$415, 597. 86	\$439, 317. 47	\$854, 915. 33
Febr'y-----	\$532, 488. 46	\$232, 503. 09	\$764, 991. 55
March-----	\$716, 255. 07	\$321, 814. 38	\$1, 038, 069. 45
April-----	\$577, 886. 18	\$230, 062. 89	\$807, 949. 07
May-----	\$627, 096. 11	\$315, 644. 56	\$942, 740. 67
June-----	\$558, 056. 60	\$646, 346. 46	\$1, 204, 403. 06
July-----	\$603, 027. 65	⁴³ \$657, 616. 76	\$1, 260, 647. 41
August-----	\$516, 967. 69	\$440, 985. 45	\$957, 953. 14
Sept'br-----	\$497, 177. 12	\$263, 274. 75	\$760, 451. 87
October-----	\$404, 092. 75	\$202, 272. 18	\$606, 364. 93
Nov'br-----	\$433, 505. 57	\$206, 806. 88	\$645, 312. 45
Dec'br-----	\$387, 590. 68	\$228, 046. 25	\$615, 636. 93
1921			
January-----	\$329, 603. 13	\$395, 117. 57	\$724, 720. 70
Febr'y-----	\$288, 060. 70	\$147, 924. 23	\$435, 984. 93
March-----	\$261, 969. 21	\$154, 355. 66	\$416, 324. 87
April-----	\$239, 988. 43	\$177, 525. 33	\$417, 513. 76

839.51/2192

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, June 1, 1921.

SIR: I have the honor to refer to letter of the Military Governor of the Dominican Republic dated March 28, 1921, which requests that this Department specifically authorize the increase of the public debt of the Dominican Republic by such an amount as shall be necessary to complete the public works necessary for the well-being of the Dominican people.

The consent of this Government to the increase of the public debt of the Dominican Republic is requested pursuant to the provisions of the "Convention providing for the assistance of the United States in the collection and application of the customs revenues of the Dominican Republic", concluded February 8, 1907, Article 3 of which reads as follows:

"III. Until the Dominican Republic has paid the whole amount of the bonds of the debt its public debt shall not be increased except by previous agreement between the Dominican Government and the United States. A like agreement shall be necessary to modify the import duties, it being an indispensable condition for the modification of such duties that the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like char-

⁴³ Should read "\$657,619.76"; the total is correct.

acter during the two years preceding that in which it is desired to make such modifications, the total net customs receipts would at such altered rates of duties have been for each of such [two] years in excess of the sum of \$2,000,000 United States gold."

It appears that the sum of \$2,500,000, is necessary for the completion of the most essential public works, and that such completion is essential to the interests of the United States and of the Dominican people.

In view of the Military Governor's statement regarding customs receipts and disbursements, and of his assurance that in addition to providing for the present charges against such revenues, namely, those indicated in Article 1 of the Convention of February 8, 1907, and the charges provided for by Executive Orders 193 and 272, that there is and will be in normal times ample income for the payment of interest and the providing of a sinking fund as proposed for a bond issue of \$2,500,000, this Government approves the issuance by the present Government of the Dominican Republic, of such bonds to obtain funds for the completion of public works.

The Government of the United States gives its consent to the inclusion in the Executive Order to be issued by the Military Governor and in the bonds themselves, drafts of both of which have been submitted, the following statement:

"With the consent of the United States, there is secured the acceptance of an[d] validation of this bond issue by any Government of the Dominican Republic as a legal, binding and irrevocable obligation of the Dominican Republic, and the duties of the General Receiver of Dominican customs as provided under the American-Dominican Convention of 1907, are extended to this bond issue."

This request of the Military Governor of Santo Domingo on behalf of the Dominican Republic, and the concurrence of this Government therein, may, it is believed, be taken to constitute, in the circumstances, the "agreement between the Dominican Government and the United States" required by Article III of the Treaty of February 8, 1907, prior to the increase of the public debt of Santo Domingo in the manner proposed.

I have [etc.]

CHARLES E. HUGHES

839.51/2240

*The Secretary of State to the Chargé in the Dominican Republic
(Herod)*

No. 429

WASHINGTON, December 23, 1921.

SIR: There is sent to you enclosed herein two copies of the Department's letter of December 17, 1921, to the Secretary of the Navy, in reply to his request that this Government agree to a further loan

to the Dominican Republic of \$7,500,000. You will retain the carbon copy in the Legation files and transmit the other copy to the Military Governor, under cover of a letter addressed directly to him, for the information of the Dominican Government.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

[Enclosure]

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, December 17, 1921.

MY DEAR MR. SECRETARY: I have received your letter of the 7th instant,⁴⁴ enclosing a paraphrase of a confidential telegram from the Military Governor of Santo Domingo, outlining the present distressing condition of the Dominican Government's finances and suggesting as a solution a loan to the Dominican Republic of \$7,500,000.

The Military Governor in his telegram points out that there is no working balance in the Treasury; that the receipts for the month of November totaled \$200,000, exclusive of customs receipts, which are barely sufficient to cover the service of the three outstanding bond issues; that the amount necessary to complete the main highway across the country and to complete other construction projects is \$700,000; that there is \$380,000 due to banks for tobacco financing and that \$500,000 more will be due to banks by April 1st, next; that \$500,000 due the Treasury for property taxes will not be collected until June or July next. He proposes out of the proceeds of the suggested twenty year bond issue of \$7,500,000 to repay the two smaller loans totaling about \$4,000,000, the bank loans, to carry out the public works program and to create a working treasury balance with the remainder, approximately \$2,000,000.

The Military Governor further states that it is necessary to issue the remaining previously authorized six months temporary certificates for \$400,000 and that the proceeds from these should be available by December 15th to prevent further suspension of salary payments now already a month in arrears; that the bank representatives in Santo Domingo say they will not purchase certificates of indebtedness without the assurance that the United States Government will approve the bond issue necessary to repay them at their maturity.

In reply to your letter endorsing the solution proposed for the difficult financial situation in which the Military Government finds itself, permit me to say at once that I shall be very glad to do what I can to relieve the situation of the Military Government. I desire, however, to point out what appear to be certain insuperable difficul-

⁴⁴ Not printed.

ties that stand in the way of floating a bond issue at this time, or so large a bond issue at any time.

First: In our Proclamation announcing our intention of withdrawing from the Republic,⁴⁵ there was an implied promise that no further loans would be floated by the Military Government. This Government is still committed to the policy of withdrawing from Santo Domingo at an early date. This policy cannot yet be said to have failed since Senator McCormick is to make an effort to bring about an agreement with the Dominican leaders under which our plan of evacuation can be carried out. It is hoped that his efforts will put an end to the present deadlock. It would be very undesirable to permit a large increase in the Dominican public debt just before we turn the Island over to a native Government.

Second: I believe that the attempt to float so large a bond issue would result in a failure which would cast discredit upon the Military Government and upon the Department. I do not believe that any bankers would undertake to sell so large an amount of bonds in the face of our announced policy of withdrawing from the Island and with the realization that the customs collectorship will come to an end within five years through the amortization of the present Dominican debt. It does not seem proper or practicable to enter into a treaty with the Military Government for the continuation of this collectorship. There is, of course, no possibility that a loan of this size could be paid off, as the two smaller loans of 1918 and 1921 will be, before our present convention with Santo Domingo expires.

Aside from the difficulties above mentioned it would appear upon close examination of the Military Governor's telegram, and of his quarterly report for the quarter ending September 30, 1921,⁴⁶ that the situation of the Military Government is not wholly without hope of being remedied by means of current revenues. The present customs receipts, it would appear, are sufficient for the service of the existing funded debt, and the remaining revenues, amounting to about \$200,000 a month, should be enough for the expenses of the Government if due economy is practiced, and if public works expenditures are confined to the special funds available. Nicaragua, a country of about the same population as Santo Domingo, is only permitted \$131,000 a month under our financial supervision.

With regard to public works, this Department is not fully informed as to the commitments already made. In view of the decrease in the revenues of the Dominican Government that has continued during the entire current year, and of the prevailing economic depression, the commitments of the Military Government

⁴⁵ Proclamation of June 14, 1921, by the Military Governor; for text, see p. 835.

⁴⁶ *Ante*, p. 849.

cannot have been much beyond the amount of the existing special funds including the available proceeds of the \$2,500,000 loan, authorized by the Department of State in June, last. It would appear, however, to be desirable under the circumstances to abrogate such of the contracts as it may be most expedient to deal with in that manner, in case the commitments exceed the resources of the Government for public works. This Department would be glad to be supplied with detailed information in this connection.

With regard to the proposed issuance of the certificates of indebtedness running for six months and amounting to \$400,000, it appears that the issuance of these certificates was authorized by the Department in its letter to the Secretary of the Navy of January 28, 1921,⁴⁷ but as a part of a total issue of \$1,200,000. It was, however, contemplated that these certificates would be repaid either out of current income or out of a loan which was under discussion and which later was floated, in June 1921, and in view of which only \$800,000 of the amount of the certificates was issued. It would appear, therefore, that a new assent of this Government under the Convention would be necessary before the Dominican public debt could be again increased by means of certificates of indebtedness. However, in view of the implied promise, referred to above, contained in the still pending plan of evacuation offered to the Dominican people in June last, to the effect that the \$2,500,000 bond issue of June 1921, would be the last that would be floated by the Military Government prior to its withdrawal, the Department feels that good faith toward the Dominican people requires that the Military Government of the Dominican Republic before the assent of this Government is given to a further increase in the public debt, demonstrate conclusively that the present deficit in the budget of the Military Government is due to the failure up to the present time of the Dominican people and of their political leaders to accept the terms of evacuation offered them in the Proclamation of June 14, 1921, and in the subsequent official statements explaining the meaning of certain of its provisions. If such a demonstration of facts is made and the need for a loan is also more clearly shown, this Department would then consider agreeing under the Convention to an increase in the public debt of the Dominican Republic, in the form of certificates of indebtedness running for six months sufficient to meet the most pressing needs of the Government. It would, however, consider it to be very undesirable to retire the certificates at their maturity by means of a bond issue unless such a course should prove to be absolutely necessary. It should be understood, therefore, in the eventuality of the issuance of the certificates being agreed to and of the certificates being sold, that the Military Government will make every effort, by exer-

⁴⁷ *Ante*, p. 857.

cising still greater economy than heretofore, to retire them, at least in part, out of economies effected in the current revenues and out of hoped for increases in collections both of current revenues and of taxes now in arrears.

I am [etc.]

CHARLES E. HUGHES

839.51/2252a

The Secretary of State to the Secretary of the Navy (Denby)

WASHINGTON, December 29, 1921.

SIR: With reference to previous correspondence in regard to the proposed issue of certificates of indebtedness by the Dominican Government, I have the honor to inform you that this Department has decided, after a careful study of the matter, to give its authorization to an issue of \$500,000 of six-months certificates of indebtedness. It may also be understood that the Department of State will, at the proper time, give its sanction to a bond issue sufficient to retire these certificates of indebtedness at maturity if such bond issue proves to be necessary for this purpose.

This authorization is given with the understanding that the funds derived from the sale of these certificates are urgently needed to place the Military Government in a position where it can meet its current expenses and continue work upon the main highway connecting the northern and southern portions of the Island, and also upon the understanding that no further borrowing is contemplated by the Dominican Government for the purpose of meeting current budget expenditures. It is hoped, therefore, that the Military Government will henceforth keep its current expenditures within its current revenues.

It should be clearly understood by the Military Government that the Department of State in authorizing this issue of certificates of indebtedness does not commit itself to any long term bond issue, except for such amount as may be necessary to retire these certificates at maturity and in the event that such bond issue is absolutely necessary for the retirement of the certificates. Pending the consideration of a possible bond issue by the Military Government, that Government should make no commitments whatever which cannot be met out of its current revenues or out of the proceeds of the present issue of certificates of indebtedness.

I have [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

BOUNDARY DISPUTE WITH HAITI

(See pages 228 ff.)

ECUADOR

PROTESTS BY THE UNITED STATES AGAINST THE RETROACTIVE APPLICATION OF DECREES FIXING THE RATE OF EXCHANGE BETWEEN THE UNITED STATES AND ECUADOR

422.11 Am 8/- : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, October 14, 1921—7 p. m.

15. G. Amsinck and Company inform Department that they have claim two years overdue against municipality of Guayaquil amounting to \$69,766.97, as of July 1, 1912 [1921], arising from default in payment five sight drafts drawn in dollars, documents attached; Banco Comercial y Agricola collection agent; that drafts were for repayment of monies expended by Amsinck for the account municipality plus 3½ percent commission, all pursuant arrangements whereby Amsinck financed in United States at request of municipality six shipments road making machinery and material ordered direct with shipping instructions by municipality from manufacturers; that though Amsinck agreed to undertake payment in United States relying on bank deposit made by municipality expressly to cover the sight drafts, deposit was diverted to other purposes without payment of drafts; that in addition municipality obtained possession of goods by some illegal means from Custom House where goods were being held as security under documents attached to drafts. Amsinck report further that municipality now claims impossible buy dollar exchange liquidate indebtedness because by law enacted subsequent to default, purchase of dollar exchange except at arbitrary government rate 2.60 illegal (commercial rate being about 4.40).

Investigate at once and if facts are as represented say informally to Government that on account of Government's financial control over municipalities, arrangements should be made at once for sufficient dollar exchange to meet indebtedness. Point out that failure to do so will be injurious to Ecuadorean credit and good name and add that you assume that Government decree fixing rate of exchange could not be intended to have retroactive effect, especially in case public obligations.

HUGHES

611.2231/9

The Secretary of State to the Minister in Ecuador (Hartman)

No. 291

WASHINGTON, *October 19, 1921.*

SIR: The Department has received a letter dated September 23, 1921, from the Brown Shoe Company, St. Louis, Missouri, (a copy of which is transmitted herewith¹) wherein the Company states that its dollar drafts are being repudiated under the recent ruling of the Government of Ecuador, fixing the rate of exchange for sucres, which retroactively affects contracts already entered into and which provide for specific arrangements.

Although the action of the Ecuadorean Government in fixing the rate of exchange, already has been the subject of despatches from the American Legation in Quito and the Consul General in Guayaquil, it has not appeared to the Department until recently that it might be a matter in which this Government should intervene. But, in view of the statements of the Brown Shoe Company, and other reports that have reached the Department as to injuries to American interests that, it is claimed, have resulted from the action of the Ecuadorean Government, it now seems that the situation may be one that should be brought to the attention of that Government.

You are instructed to investigate the matter and if, as alleged, the action of the Ecuadorean Government has resulted in preventing American citizens from exercising their rights to obtain compliance with contracts in force previous to that action by compelling them to accept sucres at less than the market price in discharge of dollar obligations, you will make appropriate representations to the Government of Ecuador, urging that the regulation of exchange, if continued, be carried out in such manner that the rights of Americans under said contracts will not be affected.

I am [etc.]

For the Secretary of State:

F. M. DEARING

422.11 Am 8/6 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, *November 15, 1921—11 a.m.*

[Received November 16—7:30 p.m.]

34. My 33, November 14th, 11 a.m. [p.m.]¹ I had an interview with President yesterday afternoon. He stated that the president of the council of Guayaquil had informed him that the municipality has sufficient money set aside to pay Amsinck claim but that United

¹ Not printed.

States drafts cannot be obtained. He said that he believes present members of municipal council are acting in good faith. I suggest that Amsinck and Company arrange to receive payment in sucres at such rate as may be agreed upon and have same deposited to their credit in some bank in Ecuador until such time as United States drafts can be obtained. This will prevent possible diversion of funds to other purposes.

HARTMAN

611.2231/10

The Minister in Ecuador (Hartman) to the Secretary of State

No. 752

QUITO, November 17, 1921.

[Received December 7.]

SIR: Referring to the Department's instruction No. 291, of October 19, 1921, with which there was transmitted a copy of a letter from the Brown Shoe Co., of St. Louis, Missouri, dated September 23, 1921, "wherein the Company states that its dollar drafts are being repudiated under the recent ruling of the Government of Ecuador, fixing the rate of exchange for sucres, which retroactively affects contracts already entered into, and which provide for specific arrangements", I have the honor to submit the following preliminary report.

Upon reading said instruction, it appeared to me advisable to have an informal interview on the subject with the Minister for Foreign Affairs, with a view to ascertaining his views in the matter.

Accordingly, I called upon him at the Foreign Office on Monday, November 14th, and brought the matter to his attention informally.

From what he said during the interview, it was apparent to me that he is in accord with the claim of Ecuadorean debtors that they have the right to compel acceptance by their creditors in the United States of sucres at the rate of 2.60 in payment of their dollar drafts, even though the market rate of exchange is much greater, and even though the contract creating the indebtedness was made before the passage of the law authorizing the fixing of an official rate of exchange.

In answer to an inquiry from me as to whether he knew of any case, involving the question, having been tried and decided by any Ecuadorean Court, he replied that he did not.

In view of his attitude I prepared and delivered my note No. 445, of November 16, 1921, of which the enclosed is a copy. Upon receipt of the Minister's answer, I will make further report to the Department.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure]

*The American Minister (Hartman) to the Ecuadoran Minister for
Foreign Affairs (Ponce)*

No. 445

QUITO, November 16, 1921.

EXCELLENCY: Referring to our informal interview on November 14th, in respect to the law authorizing the President, in conjunction with a commission, to fix the rate of exchange for sucres, I have the honor, by direction of my Government, to submit the following:—

I understand from what was said in that interview by Your Excellency, that Your Excellency is of the opinion that under the law of October 10, 1917, and the Executive Decree of March 11, 1921, made pursuant thereto, fixing the rate of exchange between the United States and Ecuador at 2.60, a resident of Ecuador who may be indebted to a person residing in the United States, may legally compel his creditor to accept payment of his debt at the rate of 2.60, notwithstanding the fact that the commercial or market rate is at present from 3.70 to 4.00, and notwithstanding the fact that drafts drawn representing such indebtedness are payable in United States dollars and not in sucres.

I further understand from that interview that it is Your Excellency's opinion that this is the right of the debtor even though the contract creating the debt was entered into before the passage of the law authorizing the fixing of an official rate of exchange.

From this opinion of Your Excellency I am impelled, most respectfully, to dissent.

A number of cases have been reported to my Government wherein debtors in Ecuador to commercial houses or others in the United States have asserted their right to compel their creditors to accept sucres at less than the market price in discharge of obligations payable in dollars.

With the foregoing understanding of the opinion of Your Excellency, which apparently sustains Ecuadorean debtors in that claim I earnestly urge that, if the regulation of exchange is to be continued by Your Excellency's Government, it may be done in such a manner that the rights of Americans under such contracts will not be prejudiced.

I avail myself [etc.]

CHAS. S. HARTMAN

422.11 Am 8/8 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, November 30, 1921—6 p.m.

22. Your 33, November 14, 11 a.m. [*p.m.*].³

Inform President as follows: Amsinck and Company states it is desirous of doing all it can to solve present difficulties and as a prerequisite to starting negotiations regarding exchange wishes to make certain as to correctness of its assumption that debt as stated is acknowledged by municipality and that decree fixing arbitrary rate of exchange will not be applicable in this case; also that Company asks that 48,110.39 sucres held by Banco Comercial y Agricola and 120,000 sucres of Cédulas Hipotecarias deposited in said bank to guarantee drafts of which Company was notified by Bank's letter of October 11, be placed in trust or otherwise secured for Company pending result of contemplated negotiations.

Cable report.

HUGHES

611.2231/11

The Minister in Ecuador (Hartman) to the Secretary of State

No. 761

QUITO, December 1, 1921.

[Received December 29.]

SIR: Referring to my despatch No. 752, of November 17, 1921, respecting the claim of Ecuadorian debtors that they have the right to compel acceptance by their creditors in the United States of sucres at the official rate of 2.60 in payment of dollar drafts, even though the market rate of exchange is much greater, and even though the contract creating the indebtedness was made before the passage of the law authorizing the fixing of an official rate of exchange, I have the honor to make the following additional report:

On yesterday afternoon I received note No. 50, of November 30th. from the Minister for Foreign Affairs (copies and translation enclosed) in answer to my note No. 445, of November 16, 1921.

In this connection, I have to advise the Department that, under date November 24, 1921, a new decree fixing the official rate of exchange at 3.60 was signed by the President. Triplicate copies of this decree, with translation, are herewith enclosed.³

I have [etc.]

CHAS. S. HARTMAN

³Not printed.

[Enclosure—Translation]

The Ecuadoran Minister for Foreign Affairs (Ponce) to the American Minister (Hartman)

No. 50

QUITO, November 30, 1921.

MR. MINISTER: I have before me the esteemed note of Your Excellency, No. 445, of the 16th instant, received the 17th.

In the conversation which I had with Your Excellency on the 14th, I stated to Your Excellency: (a) That the Government of Ecuador, by virtue of a Law, was obligated to fix the rate of exchange: (b) that, in fulfilment of this duty, the Government had fixed it, in an Executive Decree: (c) that, as a general rule, payments in Ecuador must conform to this Decree; but that it pertains to the Judicial Power to judge and decide the controversies which arise in particular cases, taking into consideration the special circumstances of each case, such as the conditions of the contract as regards the place of payment, the currency in which the latter is to be made, etc., and taking into consideration the rules of Private International Law for the determination of the law which in each case should be applied, when the controversy is relative to contracts celebrated in one country for execution in another; and (d) that the rate of exchange fixed in the Executive Decree is applicable, in my opinion, to payments posterior to its date, even when they result from debts contracted previously. I added that the President of the Republic was occupied in studying all the data necessary to fix, in a new Decree, the maximum rate of exchange, in a manner corresponding to the present circumstances of our international commerce.

I now take pleasure in communicating to Your Excellency that on the 24th of this month the Executive Decree was issued, and was promulgated on the following day in No. 360 of the *Registro Oficial*, copy of which I am transmitting to Your Excellency.⁵

I renew [etc.]

N. CLEMENTE PONCE

422.11 Am 8/16: Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, December 13, 1921—4 p.m.

[Received December 14—10:20 a.m.]

37. Department's 22, November 30, 6 p.m. President's answer received today states that by reason of autonomy of municipality he will not be able to intervene but that he has written the municipality

* Not printed.

transcribing at the same time the desires of Amsinck and Company and suggesting to the president of the municipality the necessity that the municipality comply with the arrangement.

HARTMAN

611.2231/10 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, December 13, 1921—6 p.m.

24. Your despatch No. 752, November 17.

Before Ecuadorean Government formally decides that the decree fixing the arbitrary rate of exchange is retroactive in accordance with the views expressed by the Minister of Foreign Affairs, it is of the utmost importance that you inform the President of Ecuador that despite reports of numerous protestants to the contrary, the Government of the United States has refused to believe that the Government of Ecuador has made any ruling that would deprive American citizens of rights acquired under contracts existing prior to said ruling, because of the conscientious efforts that in the past the Ecuadorean Government has made to protect the rights of foreigners and of the serious effect such a ruling would have abroad upon the credit of the Government of Ecuador and its citizens and because the Government of the United States has recently noted the increased desire of the Government of Ecuador to overcome the economic difficulties resulting from the European war; therefore the Government of the United States confidently expects a definite decision and announcement from the Government of Ecuador that its ruling with reference to the rate of exchange should not be so construed by debtors as to deprive foreign creditors of rights acquired prior to the ruling.

HUGHES

422.11 Am 8/18 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, December 24, 1921—4 p.m.

25. Your 37, December 13, 4 p.m. Note that President's answer evades specific statement that municipality acknowledges debt to G. Amsinck and Company, and statement that decree fixing rate of exchange not applicable in this case, which statements are regarded by company as important prerequisites to initiating negotiations with municipality.

Also our 24, December 13, 6 p.m. What is decision regarding retroactive application of exchange decree to claims in general?

President should realize that American claimants affected are so numerous that practically all important American banks are either directly or indirectly concerned regarding attitude of Ecuadorean Government in this matter, and might not be favorably disposed toward any further financial transaction with the Government of Ecuador until this matter satisfactorily adjusted. Refer also to transfer of Guayaquil and Quito Railway bond funds to representative of bondholders.⁶ Minister from Ecuador, Mr. Harman⁷ and others have called at Department to discuss plans of Government of Ecuador for foreign loan, but President of Ecuador should know that efforts of this Department and of other friends of his Government will be fruitless unless satisfactory adjustment of difficulties mentioned is determined.

HUGHES

422.11 Am 8/23

The Minister in Ecuador (Hartman) to the Secretary of State

No. 772

QUITO, December 29, 1921.

[Received January 31, 1922.]

SIR: Referring to the Department's telegram No. 25, of December 24th, 4 p.m., I have the honor to inform the Department that on yesterday afternoon I had an informal and confidential interview with President Tamayo respecting the matters mentioned in said telegram.

The President was evidently deeply concerned and greatly worried over the existing financial conditions, and the many difficult and complex problems which are each day crowding upon him for solution. I have never before seen him when he was so thoroughly depressed and downhearted. He stated that he would welcome the day when his term of office expired and he was released of its burdens and responsibilities. He said that he felt that the Government of the United States was pressing him unduly in these matters, in view of the fact that he was doing all in his power under adverse circumstances to meet the national obligations. To that statement I replied that I was certain that my Government entertained the most friendly feeling for him and for his Government, and that its purpose in calling attention to the matters which I had submitted to him is, not only to obtain fair treatment for the American interests involved, but also to enable my Government to be of substantial assistance to him in obtaining the loan for his Government now in process of negotiation.

⁶ Section on maintenance of the credit of the Guayaquil and Quito Railway, pp. 881 ff.

⁷ Archer Harman, vice president of the Guayaquil and Quito Railway.

He further said that he had ordered the transfer of funds deposited for the service of the Guayaquil and Quito railway from the Banco Comercial y Agricola to the Bank of Spanish America, but that he had been informed that Mr. Luis A. Dillon, Manager of the Bank of Spanish America, had told the Minister of Hacienda that unless the Government arranged to replace the funds withdrawn (S/390,000) by means of a loan for that amount from his bank, he would not accept the transfer. (The amount of bond interest ordered transferred is S/1,027,941., which amount includes the service of the Salt Certificates.⁸) The President also stated that Mr. Dillon claims to be authorized by the bondholders to refuse to accept the transfer of the above sum unless the amount previously withdrawn is replaced.

The President added that his efforts to obtain a foreign loan were particularly inspired by his desire to pay all overdue interest on the Guayaquil and Quito Railway bonds, and that he did not desire to contract the proposed loan to cover the funds which were withdrawn without his consent by the former Minister of Hacienda, as it would impose an additional annual interest charge of thirty or forty thousand sucres.

As to the rate of exchange he seemed to be very much embarrassed, as on the one hand he is pressed by the merchants to abrogate the present rate of 3.60, and on the other hand he is requested by foreign creditors to state that it is not applicable to previous contracts. No definite answer was given as to whether he believes that the official rate of exchange is applicable to the debt of Amsinck and Company and foreign creditors in general whose transactions had taken place previous to the issue of the decree fixing it. However, from what he said I am inclined to believe that he is of the opinion that the official rate should govern payment of debts in general, no matter whether those debts have been contracted before or after the issuance of the decree fixing it.

In this connection I desire to say that this problem of the rate of exchange is so much discussed by the press of Ecuador that I would not be surprised if the President takes some further action soon concerning it. Many people believe that the best thing would be to abstain from fixing any official rate of exchange, but the President construes the law of Congress as mandatory.

The President further stated that if Mr. Dillon refused to accept the funds which he has ordered transferred, he will instruct the

⁸ In despatch no. 782, Jan. 16, 1922, not printed, the Minister corrects the statement in parentheses in substance as follows: The funds for the Salt Certificates were not transferred to the Bank of Spanish America, but were transferred on Jan. 13, 1922, to the credit of the bondholders in the Banco Comercial y Agricola, the transfer having been made to prevent any withdrawal of these funds for other purposes (file no. 422.11 Am 8/30).

Banco Comercial y Agricola to place all funds now on deposit to the order of the bondholders in that bank, so that no official of the Government of Ecuador can withdraw any portion thereof.

As to whether the Municipality of Guayaquil acknowledges the debt to Amsinck and Company, he said that, since the Municipality is an autonomous body, he is not able to answer for it.

Regarding the information which I have concerning the retroactive application of the Exchange Decree to claims in general, I respectfully refer the Department to my despatches No. 752, of November 17, 1921, and No. 761, of December 1, 1921, in which I reported the opinion of the Minister of Foreign Relations to be that the application should be retroactive, and added his further statement that as yet no case had been brought before the Ecuadorean Courts which would involve a decision in the matter.

I left an informal confidential memorandum with the President (of which I enclose copies), to which he stated that he would reply in a few days.

It is probable that his answer to this memorandum may contain some modifications of what he said in the oral interview.

When his answer is received, I will promptly communicate its contents to the Department.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure]

The American Minister (Hartman) to President Tamayo

MEMORANDUM

The American Minister respectfully salutes His Excellency, The President of Ecuador, and has the honor to submit the following informal confidential memorandum for His Excellency's consideration; and the Minister expresses the hope that His Excellency will find it convenient and agreeable, at an early date, to make his reply thereto, containing the desired information indicated in said memorandum, and such expression of His Excellency's views on the several subjects therein mentioned as His Excellency may deem meet and proper.

1. The Department of State desires very much to receive a statement to the effect that the debt to G. Amsinck and Co. is acknowledged by the Municipality of Guayaquil, as well as a statement that the decree fixing the rate of exchange is not applicable in this case, Amsinck & Co. regard these statements as important prerequisites to initiating negotiations with the Municipality.

2. The Department would be pleased to learn definitely the attitude of the Government of Ecuador toward the application retroactively of the Exchange Decree to claims in general.

3. American claimants are so numerous that practically all important American banks are directly or indirectly concerned as to the attitude of the Government of Ecuador in this matter, and these banks might not be favorably inclined toward any further financial transaction with the Ecuadorean Government until this matter is adjusted satisfactorily.

4. The delay in transferring bond interest funds of the Guayaquil and Quito Railway from the Banco Comercial y Agricola to the Commercial Bank of Spanish America, as per agreement, is causing the Department great concern, and it is apprehended that such delay will further embarrass the pending negotiations for the loan hereafter mentioned.

5. The Department has received calls from Mr. Harman, the Ecuadorean Minister, and other persons, for the purpose of discussing the plans of the Ecuadorean Government regarding the foreign loan, but His Excellency will of course understand that unless the difficulties mentioned are satisfactorily adjusted, the efforts made by the Department of State and by other friends of His Government will be without results.

Charles S. Hartman avails himself of this occasion to renew to His Excellency, Sr. Dr. Dn. Jose Luis Tamayo the assurances of his highest consideration.

QUITO, *December 27, 1921.*

MAINTENANCE OF THE CREDIT OF THE GUAYAQUIL AND QUITO RAILWAY⁹

Further Delays by the Ecuadoran Government in Meeting the Interest on the Railway Bonds—Project for a Loan to the Government from the Railway

422.11 G 93/1157

The Minister in Ecuador (Hartman) to the Acting Secretary of State

No. 632

QUITO, *January 4, 1921.*

[Received February 1.]

SIR: I have the honor to advise the Department that in a conversation with President Tamayo yesterday afternoon, in answer to my inquiry, he assured me that the daily deposits on account of the serv-

⁹ For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 191 ff.

ice of the Guayaquil and Quito Railway bonds would be continued, notwithstanding the fact that the decree of March 8, 1920,¹⁰ ordering the deposits had expired on December 31, 1920. He stated that in his opinion the decree was unnecessary as the obligation on the Government of Ecuador to make the deposits was contained in the contracts.¹¹

I have [etc.]

CHAS. S. HARTMAN

422.11 G 93/1158

The Minister in Ecuador (Hartman) to the Acting Secretary of State

No. 634

QUITO, January 5, 1921.

[Received February 1.]

SIR: Referring to the Department's telegram No. 41, of December 8,¹² relating to the interview with the President of Ecuador recently published in the London *Times*, wherein the President is quoted as favoring foreclosure of the Guayaquil & Quito Railway by the British bondholders; referring also to my telegrams No. 80, of December 13, 5 p.m., No. 81 of December 16, 4 p.m., and No. 85 of December 23, 9 a.m.,¹³ and to my despatch No. 627 of December 21, 1920,¹⁴ I now have the honor to inform the Department that I have received a note from the Minister for Foreign Affairs in answer to my note to him, to which I made reference in the last paragraph of my said despatch No. 627, and I am enclosing, for the information of the Department, triplicate copies, with translation, of the Minister's note, which is numbered 18, and bears date December 29, 1920.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure—Translation ¹⁵]

The Ecuadoran Minister for Foreign Affairs (Ponce) to the American Minister (Hartman)

No. 18

QUITO, December 29, 1920.

MR. MINISTER: Yesterday I received the esteemed note no. 394, in which Your Excellency, under date of December 21, by direction of your Government, communicates the following:

¹⁰ Not printed; purport given in telegram no. 14, Mar. 18, 1920, from the Minister in Ecuador, *Foreign Relations*, 1920, vol. II, p. 195.

¹¹ See despatch no. 525, Apr. 1, 1920, paragraph 6 as printed, from the Minister in Ecuador, *ibid.*, p. 198.

¹² *Ibid.*, p. 203.

¹³ Telegrams nos. 80, 81, and 85 not printed.

¹⁴ *Foreign Relations*, 1920, vol. II, p. 204.

¹⁵ File translation revised.

That in an interview with His Excellency Dr. José Luis Tamayo, President of Ecuador, published in the London *Times* some months ago, His Excellency Dr. Tamayo was quoted as favoring foreclosure action by the British bondholders of the Guayaquil and Quito Railway, and that in an interview which Your Excellency had with His Excellency Dr. Tamayo on December 20, the President confirmed the statement attributed to him. Further, that in view of this confirmation, Your Excellency, under instructions from your Government, advises this Ministry of the regret with which the Department of State views this attitude of His Excellency the President of Ecuador with respect to a legitimate American enterprise, the affairs of which are conducted in accordance with the provisions of an award made by representatives of the Government of Ecuador and of the Government of the United States.

I immediately informed the President of the Republic of the contents of Your Excellency's said note, and in compliance with instructions received from the President, I have the honor to advise Your Excellency of the surprise with which the President learned that the Department of State regrets that the President should express an opinion which is simply the recognition of a condition expressly stated in the said contract, a contract which, for the contracting parties, has the force of law, and the efficacy and effects of which must be and are subordinate, solely and exclusively, to the laws to which it is subject and to the appropriate courts.

I avail myself [etc.]

N. CLEMENTE PONCE

422.11 G 93/1159 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, February 3, 1921—5 p.m.

[Received February 4—5 p.m.]

5. I was informed today by the General Manager of the Guayaquil and Quito Railway Company that daily deposits account bond interest and salt certificates have been suspended since January 15th but reason for suspension is not known and that President of Ecuador, who is now in Guayaquil, wishes to pay total amount deposits to bondholders at the rate of 10 sucres per pound. London exchange here at present 12 sucres. Full details cabled by the general manager to New York Office.

HARTMAN

422.11 G 93/1159 : Telegram

The Acting Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, *February 14, 1921—7 p.m.*

2. Your February 3, 5 p.m.

You are instructed to investigate and report immediately and fully relative to suspension since January 15th of daily deposits and particularly whether this suspension is temporary or apparently a new and permanent policy of the administration and whether, in your opinion, the Government is in such financial straits as to justify such action. Unless new factors have arisen which materially change the situation, the Department finds it difficult to sanction the action of the Government of Ecuador in failing to remit to London sums now due because of the alleged reason that British exchange cannot be bought at a reasonable figure. The exchange situation throughout the world makes it difficult for those Governments whose currency has depreciated to meet their obligations at present, but the policy of defaulting on obligations because of unfavorable exchange rates, as the Government of Ecuador has done, renders the exchange situation more difficult of solution.

While the Government of Ecuador has given assurance that none of the funds deposited will be withdrawn or devoted to other uses, nevertheless the Department has been apprised of no reason why these sums should not be deposited to the credit of the Council of Foreign Bondholders and remitted to London as provided for in the contract. Unless the financial condition of Ecuador absolutely requires such action, the Department is unwilling to concur at the present time in the President's proposed plan to pay the total amount of deposits to Bondholders at the rate of ten sucres per pound. This plan in effect establishes an artificial rate of exchange and in the event that sucres are quoted at ten to the pound sterling or even lower for any length of time, the Department would be placed in the position of assenting to an indefinite suspension of the remittances to London in direct contravention to the terms of the contract.

DAVIS

422.11 G 93/1162 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, *February 18, 1921—10 a.m.*

[Received February 19—7:06 p.m.]

7. Department's no. 2, February 14, 7 p.m. Daily deposits resumed with large amounts February 7th. Total amount on deposit February 15th account interest railway bonds 763,500 sucres; salt certificates 145,318 sucres.

The President and Minister of Hacienda are in Guayaquil endeavoring to solve the critical financial problems of the Government and those of the Association of Agriculturalists growing out of the cacao [taxes].¹⁶ They are expected to arrive Quito within a few days. Upon the return of the President I will call upon him with a view to ascertain the results of his efforts in Guayaquil and report to the Department.

I had an interview with the Minister for Foreign Affairs yesterday afternoon on the subject but he had not learned of the temporary suspension of daily deposits. He stated that it is the policy of President to continue daily deposits in spite of the present critical financial condition of the Government and remit as soon as British exchange can be bought at a reasonable figure.

I am expecting full information from Mr. Lindberg¹⁷ regarding the negotiations now in progress looking toward the adjustment of the present financial difficulties, and upon its receipt I will report to the Department.

HARTMAN

422.11 G 93/1170½

The Ecuadoran Minister (Elizalde) to the Secretary of State

MEMORANDUM

[Translation]

The Minister of Ecuador has the honor to confirm unofficially, his conversation of this morning with Mr. Sumner Welles, Chief of the Latin-American Division of the Department of State, relative to the cablegram of the Government of Ecuador which he showed to him.

It is a fact that the Government of Ecuador has more than a million sucres deposited in the Commercial and Agricultural Bank of Guayaquil for the payment of the railway bondholders, which fund the Government earnestly wishes to send to its destination so as to avert any risk but finds itself unable to make remittance on account of the high cost of bills of exchange.

As the complaints of bondholders generally come to the State Department through the Guayaquil & Quito Railway Co. when there is any delay in the payments, the Government of Ecuador transmits this information to the Department, not only in evidence of its will-

¹⁶ For papers regarding efforts to liquidate the debts of the Cacao Growers Association, see pp. 896 ff.

¹⁷ Mr. A. F. Lindberg, assistant manager of the Mercantile Bank of the Americas, and representing the Mercantile Bank and the banking firm of Brown Bros.

ingness to meet those obligations, but also to find out whether any means could be suggested to transfer those funds to London or New York, either through the purchase of Ecuadorean products or in any other manner which will facilitate the realization of the wishes of the Government of Ecuador.

WASHINGTON, *March 31, 1921.*

422.11 G 93/1174

The Minister in Ecuador (Hartman) to the Secretary of State.

No. 668

QUITO, *April 4, 1921.*

[Received May 6.]

SIR: I have the honor to confirm my telegram No. 11 of April 3, 11 a.m.,¹⁸ wherein I reported the sincere desire of the Government of Ecuador to remit the monies now on deposit, amounting to more than one million sucres, for the service of the Guayaquil & Quito Railway bonds, and suggested that if the Department could induce the bondholders to accept cacao in payment of all or part of the amount now on deposit, it would be greatly appreciated by the Government of Ecuador.

I am thoroughly convinced of the good faith of the President and Minister for Foreign Affairs in their expressed desire to devise some plan to enable them to remit this money to London as soon as possible, but they feel that the present rate of exchange is ruinous, and they are therefore invoking the aid of the Department to assist in inducing the bondholders to accept cacao in lieu of money. Within a few days I expect to have another interview with President Tamayo on the general financial situation, particularly with reference to the present status of the negotiations for the conversion of the foreign debt. After that interview I will report results to the Department.

I have [etc.]

CHAS. S. HARTMAN

422.11 G 93/1183a : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, *June 28, 1921—5 p.m.*

6. In view of the fact that the Congress of Ecuador will meet on August 10, the Department considers it advisable that you bring the following considerations to the attention of the Government of Ecuador without delay:

¹⁸ Not printed.

1. In view of the specific stipulation in the contract of the Guayaquil and Quito Railway Company that deposits account interest and sinking fund prior lien bonds be segregated in a special fund subject to order of bondholders, you are instructed to inquire whether the Government will not be willing to transfer the funds now held on deposit account railway bonds in governmental account local banks to account of bondholders.

2. Inquire whether the Government of Ecuador has formulated any plan for paying the past due interest of 47½ per cent as of July 1, next, to the bondholders, and if not, whether the Government of Ecuador is willing to fund the same, giving proper security.

3. Inasmuch as the special duties allocated by Congress for service of the bonds do not provide the amount called for in the contract, should not provision be made to increase the same at the coming session? In the event that the present budget is shown not to permit such increase, has the Government of Ecuador any financial reorganization in mind which would provide for increased revenues or decreased expenditures?

In making these inquiries of the Government of Ecuador, you should make it plain that this Government fully realizes the difficult situation in which the Government now finds itself and does not intend to convey the impression that it desires to bring undue pressure to bear in support of the American interests involved in the railroad. The Department would, however, appreciate a statement by the Government of Ecuador of any measures which it may have in mind to relieve just claims of those American interests.

HUGHES

422.11 G 93/1184 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, July 3, 1921—10 a.m.

[Received July 5—2:02 p.m.]

21. Department's 6, June 28th, 5 p.m. I respectfully ask authority to defer action on Department's instruction pending the completion of negotiations now in progress relating to the identical matters contained in Department's telegram between the President of Ecuador and the official management of Guayaquil and Quito Railway Company here.

I am informed that President has already agreed to transfer interest funds under my care to credit of bondholders and only awaits proper document from G. Mills and Company¹⁹ which will protect the Minister of Hacienda in making the transfer.

I am further informed that satisfactory progress is being made in other matters now under negotiation and it is feared that if action

¹⁹ The banking firm of Glyn, Mills, Currie & Co., London.

on Department's telegram is taken now it will result in seriously embarrassing these negotiations.

Full report of negotiations has been cabled New York office of railway by management here. Please answer by telegraph.

HARTMAN

422.11 G 93/1184: Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, July 9, 1921—4 p.m.

7. Your 21 July 3, 10 a.m.

You may defer action on Department's 6, June 28th, 5 p.m., until such time as in your judgment you can present it effectively.

HUGHES

422.11 G 93/1189

The Minister in Ecuador (Hartman) to the Secretary of State

No. 701

QUITO, July 28, 1921.

[Received August 18.]

SIR: Referring to Department's telegram No. 6, of June 28—5 p.m., my telegram No. 21, of July 3, 10 a.m., and Department's telegram No. 7, of July 9, 4 p.m., I have now the honor to enclose herewith, for the information of the Department, a copy with translation,²⁰ of the minutes of the meetings of the representatives of the Government of Ecuador and those of the Railway Company in carrying on the negotiations mentioned in my said telegram No. 21.

While all the subjects discussed at these conferences were not finally disposed of, it will be observed that certain increases were agreed upon in the tariff rates of the Company, in consideration of which the Company undertakes to contribute 500,000 sucres per year toward the payment of interest and sinking fund of the First Mortgage Bonds and Prior Lien Bonds.

I have been informed by Mr. J. C. Dobbie, General Manager of the Railway that he expects to arrive in Quito about August 5th, and take up some of the matters with the Government which were left unsettled at the former conferences. When he arrives and the projected conference is completed, and the results are reported to me, I will then take such action as appears proper regarding Department's telegram No. 6, of June 28, 5 p.m., in exercise of the discretion given me in Department's telegram No. 7, of July 9, 4 p.m.

²⁰ Not printed.

In this connection, I feel that I ought to say to the Department that, in my judgment, the present attitude of the management of the Railway in Ecuador, in its proposals to assist Ecuador in the payment of the Railway bond interest is both just and expedient, and will go a long way toward the complete obliteration of the vanishing anti-American sentiment in this country. Public sentiment, with the exception of a writer in *El Día*, seems to be almost unanimous in approving the agreements thus far reached as above reported.

I have [etc.]

CHAS. S. HARTMAN

422.11 G 93/1193

The Minister in Ecuador (Hartman) to the Secretary of State

No. 706

QUITO, August 18, 1921.

[Received September 16.]

SIR: By way of supplement to my despatch No. 705, of August 12, 1921,²¹ I have the honor to advise the Department that it has been brought to my knowledge that the sum of 390,000 sucres was withdrawn during the latter part of July from the amounts deposited with the Banco Comercial y Agrícola by the Government of Ecuador on account of interest on the Railway bonds.

I have also been informed that the withdrawal was made by the Minister of Hacienda without the knowledge of the President, and that the sum withdrawn will be replaced in a few days. I will advise the Department of further developments.

I have [etc.]

CHAS. S. HARTMAN

422.11 G 93/1184 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, August 18, 1921—5 p.m.

10. Your No. 21, July 3, 10 a.m., and Department's No. 7, July 9, 5 [4] p.m.

Department informed by the officials of the Guayaquil and Quito Railway that in their opinion the Department's No. 6, June 28, 5 p.m., should be brought to the attention of the Government of Ecuador without delay so that favorable action may be taken by that Government before the adjournment of Congress.

You are instructed to cable Department on 1st each month amount of daily deposits.

HUGHES

²¹ Not printed.

422. 11 G 93/1190

The Ecuadoran Minister (Elizalde) to the Secretary of State

[Translation]

No. 15

WASHINGTON, August 19, 1921.

MR. SECRETARY: I have the honor to confirm the oral communication I made yesterday to Your Excellency in the sense that my Government desires to arrive at the earliest possible date at a solution by arbitration, of the questions pending with the Guayaquil and Quito Railway Company.

Article 27 of the Contract with that American Company provides as follows:

“The disputes or disagreements that may arise between the two contracting parties, shall be decided by the President of Ecuador and the President of the United States and if these should not agree or accept to act as arbitrators, they will appoint an arbitrator each to solve any difficulty; and if these should also fail to agree, the same Presidents will appoint an umpire.”

On two occasions the President of Ecuador and the President of the United States appointed their representatives to pass upon the dispute as arbitrators.²² Difficulties springing mainly from the prescriptions and limitations of the law of Ecuador which could not be ignored in organizing the tribunal and the proceedings in the trial, prevented the institution of the arbitral proceedings and caused the retirement of the arbitrators.

The Ecuadorean Congress enacted on November 7, 1920, a law which provides that the Executive Power “shall bring into effect the actions against the said Company, either by bringing them upon the ordinary courts of justice or by referring them to a tribunal of arbitrators organized as provided by the contract which will act with one or two secretaries selected by itself and in the manner and forms which the tribunal itself may elect, without its being necessary to abide by the provisions of the organic law of the Judicial Power.”

In this way, my Government believes it has cleared the way to disposal of a long standing and vexatious question, provided His Excellency, the President of the United States, be willing to resume

²² Presumably the Minister refers to the attempts at arbitration, 1913-14; Mr. Henry L. Janes was first appointed the American Arbitrator and was succeeded by Judge Alexander L. Miller. See *Foreign Relations*, 1912, p. 421; 1913, p. 494.

the office of arbitrator or delegate his right to a special representative, as was done on the two previous occasions.

I avail myself [etc.]

R. H. ELIZALDE

422.11 G 93/1196

The Minister in Ecuador (Hartman) to the Secretary of State

No. 707

QUITO, August 20, 1921.

[Received September 30.]

SIR: I have the honor to acknowledge receipt of Department's telegram No. 10, of August 18, 5 P.M., which was delivered at the Legation last night.

In compliance therewith, I have today addressed my note No. 434 to the Minister for Foreign Affairs, wherein I submitted the inquiries and suggestions set out in Department's telegram No. 6, of June 28, 5 P.M. (1921), and assured the Minister that, in making the inquiries, the Government of the United States fully realizes the difficult situation in which the Government of Ecuador now finds itself, and does not intend to convey the impression that it desires to bring undue pressure to bear in support of the American interests involved in the railroad, but that the Department would appreciate a statement by the Government of Ecuador of any measures which it may have in mind to relieve the just claims of all.

Upon receipt of the Minister's answer, I will promptly transmit same to the Department by mail.

I have [etc.]

CHAS. S. HARTMAN

422.11 G 93/1197

The Minister in Ecuador (Hartman) to the Secretary of State

No. 709

QUITO, August 31, 1921.

[Received September 30.]

SIR: Referring to my despatch No. 707, of August 20, 1921, wherein I acknowledged receipt of Department's telegram No. 10, of August 18, 5 p.m., and advised the Department that, in compliance with its said telegram I had on August 20th. addressed my note No. 434 to the Minister for Foreign Affairs, etc., I now have the honor to enclose herewith, for the information of the Department, a copy, with translation, of the note No. 38, of August 30, 1921, of the Foreign Office, in answer to my said note No. 434 of August 20, 1921.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure—Translation ²³]

*The Ecuadoran Minister for Foreign Affairs (Ponce) to the
American Minister (Hartman)*

No. 38

QUITO, August 30, 1921.

MR. MINISTER: I have the honor to answer the courteous note no. 434, which Your Excellency addressed to me on the 20th instant.

In that communication and by direction of Your Excellency's Government, Your Excellency asked certain questions concerning the payment which the Government of Ecuador should make to the bondholders of the Guayaquil and Quito Railway in accordance with the contract referred to.

In compliance with the instructions which have been given to me in regard to this matter by the President of the Republic, to whom I submitted Your Excellency's note above mentioned, I answer said note as follows:

In my note no. 18 of December 29th, of last year,²⁴ I have already brought to the notice of Your Excellency that the contract of the Government of Ecuador with the Guayaquil and Quito Railway Company should be and is subordinate in its efficacy and effects solely and exclusively to the laws to which it is subject and to the appropriate courts.

Although this is known to be true and indisputable, my Government, for its own dignity, as well as for its credit and the national interests, has the pleasure of informing you that in the same way that it makes efforts to fulfill punctually the obligations of said contract for the period commencing September 1, 1920, it is also deeply concerned that the affairs of the public Treasury shall be so arranged as to permit the payment as soon as possible of the overdue interest, notwithstanding the damage wrought by the universal crisis which was the result of the war.

With respect to the amounts deposited during the last year for the service of interest and sinking fund of the bonds of the Southern Railroad, it has been impossible to remit them to London not only on account of the excessively high rate of exchange but also in order not to deprive the national commerce of the exchange which, offered in insufficient quantity and at a very high price, was hardly adequate for its most imperative needs; but the Government, on its own initiative, has taken steps to the end that said amounts be placed to the account and order of the bondholders. In order to accomplish this operation, it is awaiting only, as is natural, the power of attorney

²³ File translation revised.

²⁴ *Ante*, p. 882.

of the bondholders, this transaction not having been carried out yet on account of the lack of said power of attorney.

For the payment of the debt of the Government to the banks, a necessary basis to the reestablishment of the normal order in the internal finances, and for the satisfactory arrangement of the foreign debt, the Government is waiting for the National Congress, at present in session, to confer upon it the power of contracting a loan with sufficient guaranty; and expects in like manner that with such guaranty it will not be difficult for it to obtain a loan in terms and on conditions adequate to the necessities and conveniences of the Republic.

I renew [etc.]

N. CLEMENTE PONCE

422.11 G 93/1190 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, September 22, 1921—6 p.m.

12. Minister from Ecuador asked August 19th that Guayaquil and Quito Railway matter be submitted to arbitration in accordance with Article 27 of the contract. In view of statements made in your despatch No. 701, July 28, Department was hopeful prospects of amicable settlement would make this unnecessary. Investigate and cable brief statement situation with recommendations.

HUGHES

422.11 G 93/1195 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, September 27, 1921—5 p.m.

[Received September 28—7:35 p.m.]

28. Department's 11, September 21st, 5 p.m.,²⁵ and 12, September 22, 6 p.m. After interviews with President and railway management here I learned that neither party desires arbitration at present because of the belief that present negotiations will be successful. President said that he will so advise Ecuadorean Minister at Washington.

President expects to replace money withdrawn after Congress adjourns. I am keeping informed of progress and will keep the Department advised.

HARTMAN

²⁵ Not printed.

422.11 G 93/1201 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, *October 27, 1921—1 p.m.*

17. Your 31, October 21, 11 a.m.²⁶ Make strong representations to Government of Ecuador pointing out that withdrawal by Government of Ecuador of funds deposited on account of Guayaquil and Quito Railway bonds causes serious apprehension on the part of the United States Government as to effect of this violation by the Government of Ecuador of the specific terms of the agreement of September 30, 1908,²⁷ between the Government of Ecuador, the Guayaquil and Quito Railway Company and the bondholders and the probable embarrassment to this Government in its efforts to assist in reaching a settlement of the claims involved unless the funds referred to are promptly restored and held exclusively for the purpose for which intended in accordance with said agreement. Cable brief report of result as soon as possible.

HUGHES

422.11 G 93/1205 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, *November 16, 1921—9 a.m.*

[Received November 17—12:15 a.m.]

35. Department's 17, October 27, 1 p.m. Answer to my note of October 29²⁸ received yesterday states that funds were withdrawn to meet great emergency and that negotiations are in progress which the Government hopes will enable it to replace funds very soon.

HARTMAN

422.11 G 93/1193 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, *November 21, 1921—5 p.m.*

11. Your despatch No. 706, August 18th, regarding withdrawal funds deposited on account of railway bond interest. Watch developments closely and report whether or not funds are replaced.

HUGHES

²⁶ Not printed; it informed the Department that the funds were not yet replaced.

²⁷ See *Foreign Relations*, 1908, pp. 273-276.

²⁸ See telegram no. 17, Oct. 27, to the Minister in Ecuador, *supra*.

422.11 G 93/1206

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

No. 273

WASHINGTON, December 6, 1921.

SIR: There is transmitted herewith for your information copy of a letter addressed to the Secretary of State by the Secretary of the Council of Foreign Bondholders, 17 Moorgate Street, London, under date of November 15, 1921,²⁹ requesting the assistance of the Government of the United States in behalf of the holders of bonds of the Guayaquil and Quito Railway and of the four per cent Ecuadorean Government Salt Bonds.

The Secretary of the Council of Foreign Bondholders invites attention, in particular, to the withdrawal by the Ecuadorean Government, for other purposes, of 390,000 sucres, from the funds deposited for the service of the bonds; and to the unfulfilled promise of the Government of Ecuador that the funds deposited would be transferred from the Banco Comercial y Agricola to the Commercial Bank of Spanish America.

In view of these conditions the request is made in the letter referred to, that this Government appoint a representative in Ecuador for the purpose of securing observance of the contract with the bondholders.

The present situation is that this Government, having been apprised of the conditions above referred to, and having instructed its diplomatic representative in Ecuador to bring them to the attention of the proper authorities, is now advised that arrangements are now being made by the Ecuadorean Government to return the monies withdrawn from the deposited funds at an early date, and also that the transfer of the funds to the Commercial Bank of Spanish America will be made at once.

You will, in your discretion, communicate the foregoing to the Council of Foreign Bondholders, as a reply to the letter of November 15, 1921, from the Secretary of the Council.

I am [etc.]

For the Secretary of State:

F. M. DEARING

²⁹ Not printed.

EFFORTS TO LIQUIDATE THE DEBTS OF THE CACAO GROWERS
ASSOCIATION³⁰

422.11 G 93/1170

The Minister in Ecuador (Hartman) to the Secretary of State

No. 659

QUITO, *March 15, 1921.*

[Received April 9.]

SIR: Referring to the last paragraph of my telegram No. 7, of February 18, 9 [10] a.m.,³¹ I have the honor to inform the Department that Mr. Lindberg, representing Brown Brothers, arrived in Quito on March 3, for the purpose of negotiating with the Government of Ecuador for the conversion of the external debt of Ecuador.

As I have advised the Department in previous correspondence, Mr. Lindberg has been in Quayaquil during the greater part of the time since his arrival in Ecuador last October, where he was occupied, on behalf of the Mercantile Bank of the Americas, in adjusting the difficulties growing out of the cacao situation. The results of his efforts in that regard were reported to the Department in my despatch No. 651, of February 22, 1921, with which I enclosed copies of the agreement reached.³²

He was of the opinion (and I think properly so), that it was not advisable to take up the negotiations for the conversion of the foreign debt until the cacao matters were out of the road.

Since his arrival in Quito on March 3, he has had interviews with the President and Minister of Hacienda, and has furnished me with copies of draft of contract, and certain memoranda, which have served as bases for the negotiations, copies of which I am herewith enclosing.³³

He has kept me fully advised from time to time of the progress made, but I regret to say that the outlook is not encouraging for any early conclusion.

He is accordingly leaving for Guayaquil tomorrow morning, and is expecting to leave Guayaquil for the United States about March 25.

I have [etc.]

CHAS. S. HARTMAN

822.61334/36 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, *June 13, 1921—6 p.m.*

5. Department advised that Ecuadorean Congress will make no provision for payment of Association's debts beyond those of local

³⁰ For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 206 ff.

³¹ *Ante*, p. 884.

³² Not printed; the agreement was admittedly temporary.

³³ Not printed.

banks and *vale*³⁴ holders regardless of promises made by the President to special representative of Mercantile Bank of the Americas. You should make discreet inquiry and inform Department.

HUGHES

822.61334/37 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, June 16, 1921—9 a.m.

[Received 11:20 p.m.]

18. Department's 5, June 13, 6 p.m. Yesterday afternoon I submitted Department's inquiry to the President who said that he would submit a bill to Congress in August providing for extension of three-sucre tax on cacao exported and for payment of debts of Association from proceeds of tax, foreign and domestic creditors to be treated alike.

He will urge the passage of the bill but he does not feel like predicting its fate.

The subject has not been discussed in the newspapers for several months so that it is difficult to form an opinion as to public sentiment and still more difficult to predict the action of Congress.

HARTMAN

822.61334/47 : Telegram

The Mercantile Bank of the Americas, Inc., to the Secretary of State

NEW YORK, October 6, 1921.

[Received 11:52 p.m.]

Referring to our wire to-day quoting cable³⁵ received from our representative in Ecuador,³⁶ we take the liberty of quoting reply which we are forwarding. We believe that the proposal we are making is more than an equitable one and hope that you can see your way clear to instruct the American Minister to urge its acceptance.

"Referring your 10. We authorize you make following proposal President. Mercantile Bank will agree to advance to Ecuadorean Government up to \$500,000 on following conditions: (1) three-sucre tax to be extended until December 31st 1927; (2) that out of the tax 50 centavos be allocated to the budget requirements of

³⁴ Vouchers or receipts, having the character of promissory notes, for cacao delivered to the Association by the growers.

³⁵ Not printed.

³⁶ Mr. A. F. Lindberg, assistant manager of the Mercantile Bank of the Americas, and representing the Mercantile Bank and the banking firm of Brown Bros.

the Association³⁹ including interest on and repayment of the *vales*; (3) the remaining 2½ sucres to be prorated between the local banks and the Mercantile Bank in proportion to the indebtedness of the Association to each and to be used exclusively for the extinguishment of the present indebtedness plus interest at 6 percent; (4) the loan to the Ecuadorean Government to be made only out of funds coming into the hands of the bank as a result of the tax and then only up to 50 percent of the amount so received, that is, out of the first \$50,000 which we receive from the tax to extinguish the debt of the Association we would lend to the Government \$25,000; (5) the proposed loan to the Government to mature on December 31st, 1927, with interest at 6 percent payable on June 30th and December 31st in each year and to be secured by pledge of any excess of three-sucres tax after the repayment of the existing indebtedness of the Association held by local banks and the Mercantile Bank, such excess to be used exclusively in repayment of such debt further with an undertaking to utilize similarly any surplus which may arise out of the 50 centavos allocated for Association uses and repayment of *vales* and not needed for those purposes, such loan to be duly authorized by Congress before any advances are made thereunder; (6) the whole of the three-sucres tax collected for the year 1927 to be applied to the liquidation of the loan to the Government; (7) the agreement of Congress to extend the tax after 1927 in any portion of Government or Association loans not repaid at the expiration of that period. You will note that we are not attempting to urge the allocation of the proposed law in any way except that our loan to the Association should be considered on a basis of equality with that of the local banks. Five hundred thousand dollars loan would seem to be ample to cover harbor improvement which you hint is a public work which President would like to see carried out. We also point out that under present form of law Government does not retain the use of any of the funds derived from the tax, whereas, if altered so as to include the Mercantile Bank on basis proposed a large portion will remain to be used by the Government without restrictions in times when public officials can do much to alleviate suffering due to present world-wide conditions. Should Congress pass law covering suggested points you will of course see that our interests are safeguarded fully in drawing up loan agreement with Government."

MERCANTILE BANK OF THE AMERICAS, INC.

822.61334/47 : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, October 7, 1921—7 p.m.

14. Mercantile Bank advises Department that it has cabled Lindberg new proposal to be made to Ecuadorean Government relative to solution Cacao Growers' Association difficulties. You will give all proper assistance for purpose of arriving at a solution equitable to all concerned.

HUGHES

³⁹ Cacao Growers Association.

822.61834/53

The Minister in Ecuador (Hartman) to the Secretary of State

No. 722

QUITO, *October 13, 1921.*

[Received November 3.]

SIR: I have the honor to refer to the Department's telegram No. 9, August 4, 1 p.m.,⁴⁰ informing me that Mr. A. F. Lindberg was coming to Ecuador to endeavor to arrange a settlement of the debt of the Agricultural Association of Ecuador⁴¹ to the Mercantile Bank of the Americas, Inc. Mr. Lindberg arrived in Guayaquil in the latter part of August, and has since been carrying on negotiations with the Association and with the President of Ecuador in regard to this matter.

A bill was eventually introduced and passed by Congress extending the tax of three sucres per quintal on exportations of cacao until December 31, 1925, and providing for a comptroller with large powers, appointed by the Executive to supervise the administration of the Association. Under the terms of this bill, however, 66 percent of the proceeds of the three sucre tax were to be applied to the amortization of the debts of the Association to those cacao growers who are *vale* holders, and to the Banco Comercial y Agricola and the Banco del Ecuador, of Guayaquil, no mention being made of the Mercantile Bank of the Americas. The remaining 34 percent was to be expended for the administration of the Association and for the protection of the price of cacao, including the maintenance of the agricultural experiment station at Chobo.

In accordance with the Department's instructions that I render Mr. Lindberg such assistance as may be proper, I have on several occasions held conversations with the President in regard to the proposed settlement and have found him largely in accord with Mr. Lindberg's views and strongly opposed to the views held by Congress. The bill as described above was therefore vetoed by the President on the ground that it did not take care of all the creditors of the Association. On the next to last day of the present session of Congress the bill was reconsidered and the objections of the President were met, the bill being so amended as to include the Mercantile Bank in the number of those creditors among whom the 66 percent of the tax is to be divided.

While the bill as finally passed is not as favorable as Mr. Lindberg had hoped, it is at least satisfactory in that it places the Mercantile Bank on an equal footing with the other creditors. The Legation has not as yet received a certified copy of the bill, but as soon as I

⁴⁰ Not printed.

⁴¹ Cacao Growers Association.

am able to obtain one, I will forward it, with translation, to the Department.⁴²

Mr. Lindberg is now negotiating for an equitable [*equitable*] prorating of the 66 percent between his bank and the other creditors, with, in my opinion, very good chances of success, as the President, who will have a large influence upon the settlement of the apportionment, is very fair-minded and well-disposed towards the Mercantile Bank.

I have [etc.]

CHAS. S. HARTMAN

822.61334/55a : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, November 16, 1921—2 p.m.

21. It is reported that under recent law President of Ecuador has decided upon distribution of 66 per cent of three sucre tax equally amongst the three groups of claimants, the group having largest claim being American creditors, with no provision for extension of period of levying tax beyond December 31, 1925, to cover American claims then remaining unpaid.

From information at hand it would seem to Department that distribution should have been prorated among the three groups according to aggregate amount of claim of each. If you consider decision unfair to American claimants, urge reconsideration and arrangement for distribution of designated proceeds of tax upon equitable basis. Cable result.

HUGHES

823.61334/62

The Minister in Ecuador (Hartman) to the Secretary of State

No. 753

QUITO, November 19, 1921.

[Received December 7.]

SIR: Referring to the Department's telegram No. 21, of November 16, 2 p.m., relating to the decision of the President of Ecuador to distribute 66 percent of the three sucre tax on cacao exports equally amongst the three groups of claimants, the group having the largest claim being American creditors, without any provision for an extension of the period of levying the tax beyond December 31, 1925, to cover American claims then remaining unpaid, I have the honor to report as follows:—

I certainly consider the decision unfair to American claims, and accordingly, in compliance with instructions, I addressed my note

⁴² Forwarded with despatch no. 732, Oct. 22, 1921; not printed.

No. 446, of November 18, 1921, to the Minister for Foreign Affairs, three copies of which I herewith enclose.⁴³

Upon receipt of the Minister's answer, I will promptly inform the Department of its contents.

I have [etc]

CHAS. S. HARTMAN

822.61334/60

The Secretary of State to the Minister in Ecuador (Hartman)

No. 296

WASHINGTON, December 5, 1921.

SIR: There is transmitted herewith for your information a copy of a letter, dated November 29, 1921, from the Mercantile Bank of the Americas, apprising the Department of an understanding reached between the President of Ecuador and the representative of the bank, with respect to the intentions of the Government of Ecuador in connection with the claims of the bank against the Asociacion de Agricultores.⁴⁴

In your discretion, you will endeavor to verify these statements as a matter of record, and advise the Department.

I am [etc.]

For the Secretary of State:

F. M. DEARING

[Enclosure]

The Mercantile Bank of the Americas, Inc., to the Secretary of State

NEW YORK, November 29, 1921.

SIR: We have received further cables from our representative in Ecuador, Mr. Lindberg, advising us that in response to his request for a reconsideration of the decree allocating to us only one-third of the 66 per cent. of the proceeds of the Three Sucre Per Quintal Export Tax on cocoa prescribed by the recent law for the payment of the Association's debts, the President of the Republic has now agreed that there shall be allocated to us, in addition to said one-third, or 22 per cent. of the whole tax, whatever surplus there may be out of the 34 per cent. of such tax allotted by the law for the general administrative and budgetary expenses of the Association, after defraying such expenses.

In securing this reconsideration the good offices of the American Minister in Ecuador were of the utmost value and we again desire to express our appreciation.

⁴³ Enclosures not found in Department files.

⁴⁴ Cacao Growers Association.

According to the calculations cabled to us by Mr. Lindberg, it is probable there will be a considerable surplus available out of such 34 per cent. and applicable to the reduction of the indebtedness owing to this bank.

While the amounts so to be received by us still will not give us the pro rata with other creditors which we deem we are entitled to receive and for which we asked, nevertheless, we recognize the practical political difficulties against which the President of the Republic has had to contend. Accordingly, Mr. Lindberg, we understand, expressed his conformity with the President's latest decision, and we have acquiesced, but only on the express conditions, to which the President agreed, and which we desire to place formally on record with you, namely:

First: that the three sucre export tax on cocoa shall be extended, beyond its present expiry date, 1925, if necessary to fully liquidate the balance of the indebtedness due to us;

Second: that there shall be allocated to us, as above stated, any surplus out of the aforesaid 34 per cent. of the tax over and above the administrative etc. expenses of the Association in addition of course to the 22 per cent. of the tax originally allocated to us;

Third: that in case the Government obtains a foreign loan one-half of the indebtedness now due us by the Asociacion shall forthwith be paid to us out of the proceeds of such loan.

Again thanking you [etc.]

MERCANTILE BANK OF THE AMERICAS, INC.
By P. J. EDER, *Vice-President*

822.61334/68

The Minister in Ecuador (Hartman) to the Secretary of State

No. 787

QUITO, *February 9, 1922.*

[Received March 2.]

SIR: Referring to the Department's instruction No. 296, of December 5, 1921, relative to the understanding reached between the President of Ecuador and the representative of the Mercantile Bank of the Americas regarding the payment to the latter of the debt of the Association of Agriculturists, I have the honor to transmit herewith copy and translation of an informal communication from the President, dated February 5, 1922,⁴⁵ in which he confirms the terms of the agreement.

I have [etc.]

CHAS. S. HARTMAN

⁴⁵ Not printed

EGYPT

BRITISH PROPOSALS FOR A MODIFICATION OF THE CAPITULATORY RIGHTS OF AMERICAN CITIZENS IN EGYPT¹

883.00/337

The Consul General at London (Skinner) to the Secretary of State

No. 10896

LONDON, *February 25, 1921.*

[Received March 21.]

SIR: I have the honor to transmit herewith for the information of the Department copies of the report of the Special Mission to Egypt of which Lord Milner at that time Colonial Minister, was Chairman. The report may be referred to as Cmd.1131. Egypt.No.1. 1921.

I have [etc.]

ROBERT P. SKINNER

[Enclosure—Extract]

Report of the British Special Mission to Egypt

B.—THE MEMORANDUM OF AUGUST 18, 1920

. . . This document, which presently came to be known as the "Milner-Zaghlul Agreement," but which, on the face of it, was not an agreement, but merely an outline of the bases on which an agreement might subsequently be framed, was handed by Lord Milner to Adli Pasha, who, as an intermediary between the two parties, had had a large share in all our negotiations, to be communicated by him to Zaghlul Pasha and his friends. It was understood that they might make free use of it in public discussion in Egypt. It was dated the 18th August and was in the following terms:—

"The accompanying memorandum is the result of the conversations held in London in June to August 1920 between Lord Milner and the members of the Special Mission to Egypt, and Zaghlul Pasha and the members of the Egyptian Delegation, in which conversations Adli Pasha also took part. It outlines a policy for the settlement of the Egyptian question in the best interests both of Great Britain and Egypt.

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 216 *passim*.

“The members of the Mission are prepared to recommend the British Government to adopt the policy indicated in the memorandum, if they are satisfied that Zaghlu Pasha and the Delegation are likewise prepared to advocate it, and will use all their influence to obtain the assent of an Egyptian National Assembly to the conclusion of such a Treaty as is contemplated in Articles 3 and 4.

“It is clear that unless both parties are cordially united in supporting it, the policy here suggested cannot be pursued with success.
(Signed) MILNER

MEMORANDUM

“1. In order to establish the independence of Egypt on a secure and lasting basis, it is necessary that the relations between Great Britain and Egypt should be precisely defined, and the privileges and immunities now enjoyed in Egypt by the capitulatory Powers should be modified and rendered less injurious to the interests of the country.

“2. These ends cannot be achieved without further negotiations between accredited representatives of the British and Egyptian Governments respectively in the one case, and between the British Government and the Governments of the capitulatory Powers in the other case. Such negotiations will be directed to arriving at definite agreements on the following lines:—

“3.—(i) As between Egypt and Great Britain a Treaty will be entered into, under which Great Britain will recognise the independence of Egypt as a constitutional monarchy with representative institutions, and Egypt will confer upon Great Britain such rights as are necessary to safeguard her special interests and to enable her to furnish the guarantees which must be given to foreign Powers to secure the relinquishment of their capitulatory rights.

(ii.) By the same Treaty, an alliance will be concluded between Great Britain and Egypt, by which Great Britain will undertake to support Egypt in defending the integrity of her territory, and Egypt will undertake, in case of war, even when the integrity of Egypt is not affected, to render to Great Britain all the assistance in her power, within her own borders, including the use of her harbours, aerodromes and means of communication for military purposes.

“4. This Treaty will embody stipulations to the following effect:—

(i.) Egypt will enjoy the right to representation in foreign countries. In the absence of any duly-accredited Egyptian representative, the Egyptian Government will confide its interests to the care of the British representative. Egypt will undertake not to adopt in foreign countries an attitude which is inconsistent with the alliance or will create difficulties for Great Britain, and will also undertake not to enter into any agreement with a foreign Power which is prejudicial to British interests.

(ii.) Egypt will confer on Great Britain the right to maintain a military force on Egyptian soil for the protection of her Imperial communications. The Treaty will fix the place where the force shall be quartered and will regulate any subsidiary matters which require to be arranged. The presence of this force shall not

constitute in any manner a military occupation of the country, or prejudice the rights of the Government of Egypt.

(iii.) Egypt will appoint, in concurrence with His Majesty's Government, a Financial Adviser, to whom shall be entrusted in due course the powers at present exercised by the Commissioners of the Debt, and who will be at the disposal of the Egyptian Government for all other matters on which they may desire to consult him.

(iv.) Egypt will appoint, in concurrence with His Majesty's Government, an official in the Ministry of Justice, who shall enjoy the right of access to the Minister. He shall be kept fully informed on all matters connected with the administration of the law as affecting foreigners, and will also be at the disposal of the Egyptian Government for consultation on any matter connected with the efficient maintenance of law and order.

(v.) In view of the contemplated transfer to His Majesty's Government of the rights hitherto exercised under the régime of the Capitulations by the various foreign Governments, Egypt recognises the right of Great Britain to intervene, through her representative in Egypt, to prevent the application to foreigners of any Egyptian law now requiring foreign consent, and Great Britain on her side undertakes not to exercise this right except in the case of laws operating inequitably against foreigners.

“Alternative:—

In view of the contemplated transfer to His Majesty's Government of the rights hitherto exercised under the régime of the Capitulations by the various foreign Governments, Egypt recognises the right of Great Britain to intervene, through her representative in Egypt, to prevent the application to foreigners of any Egyptian law now requiring foreign consent, and Great Britain on her side undertakes not to exercise this right except in the case of laws inequitably discriminating against foreigners in the matter of taxation, or inconsistent with the principles of legislation common to all the capitulatory Powers.

(vi.) On account of the special relations between Great Britain and Egypt created by the Alliance, the British representative will be accorded an exceptional position in Egypt and will be entitled to precedence over all other representatives.

(vii.) The engagements of British and other foreign officers and administrative officials who entered into the service of the Egyptian Government before the coming into force of the Treaty may be terminated, at the instance of either the officials themselves or the Egyptian Government, at any time within two years after the coming into force of the Treaty. The pension or compensation to be accorded to officials retiring under this provision, in addition to that provided by the existing law, shall be determined by the Treaty. In cases where no advantage is taken of this arrangement existing terms of service will remain unaffected.

“5. This Treaty will be submitted to the approval of a Constituent Assembly, but it will not come into force until after the agreements with foreign Powers for the closing of their Consular Courts and the decrees for the reorganisation of the Mixed Tribunals have come into operation.

"6. This Constituent Assembly will also be charged with the duty of framing a new Organic Statute, in accordance with the provisions of which the Government of Egypt will in future be conducted. This Statute will embody provisions for the Ministers being responsible to the Legislature. It will also provide for religious toleration for all persons and for the due protection of the rights of foreigners.

"7. The necessary modifications in the régime of the Capitulations will be secured by agreements to be concluded by Great Britain with the various capitulatory Powers. These agreements will provide for the closing of the foreign Consular Courts, so as to render possible the reorganisation and extension of the jurisdiction of the Mixed Tribunals and the application to all foreigners in Egypt of the legislation (including legislation imposing taxation) enacted by the Egyptian Legislature.

"8. These agreements will provide for the transfer to His Majesty's Government of the rights previously exercised under the régime of the Capitulations by the various foreign Governments. They will also contain stipulations to the following effect:—

(a.) No attempt will be made to discriminate against the nationals of a Power which agrees to close its Consular Courts, and such nationals shall enjoy in Egypt the same treatment as British subjects.

(b.) The Egyptian Nationality Law will be founded on the *jus sanguinis*, so that the children born in Egypt of a foreigner will enjoy the nationality of their father, and will not be claimed as Egyptian subjects.

(c.) Consular officers of the foreign Powers shall be accorded by Egypt the same status as foreign Consuls enjoy in England.

(d.) Existing Treaties and Conventions to which Egypt is a party on matters of commerce and navigation, including postal and telegraphic Conventions, will remain in force. Pending the conclusion of special agreements to which she is a party, Egypt will apply the Treaties in force between Great Britain and the foreign Power concerned on questions affected by the closing of the Consular Courts, such as extradition Treaties, Treaties for the surrender of seamen deserters, &c., as also Treaties of a political nature, whether multilateral or bilateral, e.g., arbitration Conventions and the various Conventions relating to the conduct of hostilities:

(e.) The liberty to maintain schools and to teach the language of the foreign country concerned will be guaranteed, provided that such schools are subject in all respects to the laws applicable generally to European schools in Egypt.

(f.) The liberty to maintain or organise religious and charitable foundations, such as hospitals, &c., will also be guaranteed.

"The Treaties will also provide for the necessary changes in the Commission of the Debt and the elimination of the international element in the Alexandria Board of Health.

"9. The legislation rendered necessary by the aforesaid agreements between Great Britain and the foreign Powers, will be effected by decrees to be issued by the Egyptian Government,

"A decree shall be enacted at the same time validating all measures, legislative, administrative or judicial, taken under Martial Law.

"10. The decrees for the reorganisation of the Mixed Tribunals will provide for conferring upon these Tribunals all jurisdiction hitherto exercised by the foreign Consular Courts, while leaving the jurisdiction of the Native Courts untouched.

"11. After the coming into force of the Treaty referred to in Article 3, Great Britain will communicate its terms to foreign Powers and will support an application by Egypt for admission as a member of the League of Nations.

"AUGUST 18, 1920."

883.05/174

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

No. 60

WASHINGTON, July 8, 1921.

SIR: Referring to the Embassy's despatch No. 3304, of August 18, 1920,^{1a} and to previous correspondence regarding the British Government's plans respecting certain changes in the Government of Egypt, the Department desires the Embassy to address a communication to the Secretary of State for Foreign Affairs in the sense of the following:

My Government has given careful consideration to the proposals communicated by the Government of Great Britain to the Embassy respecting certain changes in the Government of Egypt and the incidental modification of rights of American citizens in that country. By direction of my Government, I have the honor to present certain considerations which are deemed pertinent to the discussion of these proposals.

The Government of the United States is earnestly desirous of cooperating with Great Britain and other Powers having capitulatory rights in Egypt, with a view to an appropriate curtailment of such special privileges of foreigners in that country as may be detrimental to its Government and people. The rights of American citizens which it appears would be affected by the plan which the British Government have in contemplation are such as determine their status before judicial tribunals in Egypt under the capitulatory regime and such as are defined by ordinary, conventional stipulations relating to the status of aliens, and by treaty provisions peculiar to the situation of foreigners in Egypt.

It is difficult to give a definite reply to the British Government's proposals in the absence of comprehensive information as to the character of the government that would be established in Egypt by the carrying out of the reforms under consideration. The laws which would supplant the present legal system in Egypt and the manner of their administration would, of course, determine the rights of American citizens in that country in the future, except in so far as they might be governed by treaty stipulations. With regard to

^{1a} *Foreign Relations*, 1920, vol. II, p. 222.

treaty rights, it may be observed that any modification of existing rights would naturally be acceptable to the Government of the United States only if American citizens should continue to be on terms of equality with nationals of the most favored nation in Egypt.

Under an Act of Congress approved March 23, 1874,² the President was authorized to suspend the exercise of judicial functions by American diplomatic or consular officers in Egypt, whenever he should receive satisfactory information that the Ottoman Government or the Government of Egypt had organized tribunals securing to American citizens impartial justice such as that secured under the administration of justice by American officials pursuant to capitulatory rights. While, therefore, if the Government of Egypt should remodel the mixed tribunals on the lines indicated in the so-called Judicature Laws, drafts of which have been sent to the Embassy,³ the President would doubtless be in a position to exercise the authority conferred on him by the law of 1874. However, the complete relinquishment of American extraterritorial rights in respect of the exercise of judicial functions by American officials in Egypt could only be effected through the negotiation of appropriate treaty provisions.

Likewise a modification of rights of American citizens in Egypt with respect to commerce and trade secured under treaties concluded with the Ottoman Empire in 1830 and 1862,⁴ and under a treaty concluded with Egypt in 1884⁵ could be effected only by the negotiation of treaty provisions suitable for that purpose.

Having made the foregoing general observations with respect to American rights in Egypt and the appropriate methods of modifying them, I have the honor briefly to comment specifically on the several proposals which have been communicated to the Embassy by the British Government.

1. The suggestion with respect to the renunciation of American rights and privileges in Egypt under the regime of the capitulations in favor of the British Government is not entirely clear. If it is understood between Great Britain and Egypt that the former, by virtue of the protectorate established in December, 1914, shall act in behalf of Egypt looking to a modification of the capitulations there would appear to be no objection to negotiations in which the British Government would occupy the position of a representative of Egypt. Any renunciation of rights and privileges which might be made by the Government of the United States in connection with such negotiations would in effect be made in favor of Egypt. The suggestion with respect to the exercise of American capitulatory rights in Egypt through a third Power does not appear to my Government one that could well have practical application.

2. The suspension or possible relinquishment of American consular jurisdiction would probably not be objectionable, provided American citizens should be afforded adequate legal remedies before tribunals of justice similar to if not precisely like those which the British Government have in contemplation. It would seem to be unnecessary, however, that such suspension or relinquishment of the

² 18 Stat. 23.

³ Not printed.

⁴ Malloy, *Treaties*, vol. II, pp. 1318 and 1321, respectively.

⁵ *Ibid.*, vol. I, p. 442.

exercise of judicial functions by consular or diplomatic representatives should involve a complete denial of the right of American citizens to have access to some kind of extraterritorial tribunals in the future.

3. It would seem to be proper that rights guaranteed to American citizens in Egypt in the future should be, as they are now, such as are accorded to nationals of the most favored nation rather than such as are secured to any particular nation. My Government is, therefore, not entirely clear as to the purpose of the proposal that American citizens shall enjoy in Egypt the same treatment as British nationals in all matters concerning public liberties, the administration of justice, and individual rights.

It may be observed with respect to the suggestion concerning the recognition of American nationality of children born of American parents in Egypt that a rule such as is proposed might serve to avoid international complications growing out of questions relating to dual allegiance. It would be in harmony with American law.

4. With reference to the proposal that the status of American consular officers in Egypt shall be the same as that of such officials in Great Britain, it is suggested that a more desirable definition of their status would appear to be that they shall enjoy in Egypt the rights and privileges accorded to consular officers of the most favored nation.

5. The purpose of extending to Egypt treaties, other than Commercial treaties, which are in force between the United States and Great Britain is not evident. It would seem proper that relations of the United States with Egypt should be governed by treaty provisions adapted to the particular subjects which it might be desirable to regulate between the two countries and not by treaties concluded between two nations whose relations are very dissimilar to those existing between Egypt and the United States, some of which treaties could evidently have no application to relations between these two countries.

The temporary maintenance of existing rates of duties and of regulations concerning exports and imports appears satisfactory. Presumably these matters might become the subject of future treaty negotiations.

6. The proposal with respect to the status of American schools in Egypt is likewise satisfactory.

7. There would appear to be no objection to the proposal with respect to the International Quarantine Board in Egypt.

As has been indicated above, it seems desirable for any government possessing capitulatory rights in Egypt, before committing itself to proposals with respect to modification of its rights, to have full information with regard to the reorganized government which may possibly be established in Egypt. And it likewise appears desirable for any such government to be informed concerning the attitude of other capitulatory powers with respect to the proposed reorganization, since all such powers would presumably want equality of treatment for their nationals in Egypt. It would seem that information concerning the attitude of each of the interested countries might serve not only to expedite the adjustment of these questions but to prevent any possible misunderstanding respecting them.

I am [etc.]

CHARLES E. HUGHES

883.05/239

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

No. 799

LONDON, December 20, 1921.

[Received January 12, 1922.]

SIR: Upon receipt of the Department's instruction No. 60 of July 8, 1921, regarding the British Government's plans respecting certain changes in the government of Egypt, I did not fail to place the matter before the appropriate authorities here, and I am now in receipt of a letter from the Foreign Office, copies of which, with the annexes thereto, I am forwarding for the information of the Department.

I have [etc.]

(For the Ambassador)

POST WHEELER

Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

No. E 11498/189/16

[LONDON,] December 14, 1921.

YOUR EXCELLENCY: In Your Excellency's note of August 23rd⁷ on the subject of the convention which His Majesty's Government are anxious to conclude with the Government of the United States in connection with judicial reform in Egypt, you emphasised the importance which your Government attach to receiving ample information with regard to any change in the government of Egypt that may be in contemplation.

2. You are aware that negotiations have recently taken place between His Majesty's Government and an Egyptian Delegation, the result of which will be apparent from documents recently laid before Parliament, copies of which I have the honour to transmit to you herewith.⁸ From a perusal of these documents you will realise that His Majesty's Government whilst anxious to satisfy the desire of the Egyptian people for an increasing degree of autonomy, are determined to retain in Egypt a position which will enable them to assure the protection of foreign interests and the sound and impartial administration of justice as affecting foreigners.

3. Your note also referred to the desirability of receiving information concerning the attitude adopted by the other capitulatory Powers towards the projected judicial reforms. I have accordingly the honour to transmit to you copies of the conventions already con-

⁷ See instruction no. 60, July 8, *supra*.⁸ Not printed; documents referred to relate to negotiations with Adli Pasha.

cluded with Portugal, Greece, Norway, Sweden and Denmark.⁹ Negotiations with the other Powers are still proceeding.

4. In the enclosed re-draft of the proposed convention with the United States an endeavour has been made to meet the objections raised in your note. In the second of the numbered paragraphs of that note reference is made to the suspension of American capitulatory rights in Egypt, and the possibility of their being revived is contemplated. This point is covered by the second paragraph of the first article of the convention as re-drafted.

5. I desire, however, to remind you of the progress which Egypt has made under the British occupation. Conditions are now very different from those which obtained when the present Mixed Courts first came into existence; and that this marked development was recognised by the United States Government may be inferred from the terms in which their representative in Egypt, when announcing the recognition by his government of the British protectorate, expressed their "sympathy with the legitimate aspirations of the Egyptian people for a further measure of self-government".¹⁰

6. It will scarcely be disputed that progress towards Egyptian self-government cannot be achieved without some limitation and modification of the capitulatory rights of foreign Powers because in the conditions obtaining today these foreign rights have become a needless fetter on good government. But the gradual removal of the restriction imposed by these rights must proceed concomitantly with the development of Egypt and therefore in view of Great Britain's special position in that country the most satisfactory arrangement is that she should be entrusted with their exercise.

7. You will perceive that the wording of the convention has been altered with the intention of meeting the points raised in the paragraphs numbered 3 and 4 of your note relative to the extension to American citizens and consular officers of the rights and privileges accorded to those of the most favoured nation.

8. It is hoped that article 5 as now drafted will be in accordance with the views of the United States Government, and that the introduction of a schedule of the treaties and conventions in force between Great Britain and the United States will remove any ambiguities which may have been present in the original text.

9. I should be grateful if you would impress upon your government the importance which His Majesty's Government attach to the early conclusion of this convention.¹¹

I have [etc.]

CURZON OF KEDLESTON

⁹ Not printed.

¹⁰ See despatch no. 457, Apr. 26, 1919, from the Agent and Consul General at Cairo, *Foreign Relations*, 1919, vol. II, p. 203.

¹¹ There is no record in the Department files of a reply to this note.

[Subenclosure]

Draft Convention between the United States of America and Great Britain regarding Rights of American Nationals in Egypt

The Government of His Britannic Majesty, and the Government of the United States of America recognizing the special position occupied by Great Britain in Egypt have agreed as follows:—

1. So soon as the Mixed Tribunals shall be reconstituted with the power to exercise over American citizens the jurisdiction now vested in the American Consular Courts, the Government of the United States agree to suspend the judicial powers of their Consular Courts and officers in Egypt, save in respect of pending cases, and to entrust the exercise of all rights which the said government derive in Egypt from the system of the Capitulations to the Government of His Britannic Majesty.

The provisions of this Article shall not come into force unless the Mixed Tribunals have been empowered to exercise similar jurisdiction over British subjects and shall only remain in operation for so long as the Government of His Britannic Majesty shall exercise in Egypt the control necessary to enable them adequately to protect legitimate foreign interests.

2. Citizens of the United States shall enjoy in Egypt the same treatment as British nationals in all matters concerning public liberties, the administration of justice, individual rights, including the tenure of real property and mining rights, the exercise of professions, businesses and industries and the imposition of taxes and duties, it being understood that these rights shall not be less than those accorded to the nationals of any other foreign Power in Egypt.

3. Children born in Egypt of an American father who is there entitled to the privileges of a foreigner shall be entitled to American nationality; they shall not, by reason of birth in Egypt become Egyptian subjects.

4. American Consuls-General, Consuls, vice-consuls and consular agents in Egypt shall enjoy after the closing of the Consular Courts the same status as the corresponding American consular officials in Great Britain, it being understood that that status shall not be inferior to that of any other consular officers in Egypt.

They shall continue to exercise, in the interest of private persons, all their non-judicial functions in the same conditions as heretofore, in so far as the laws of Egypt do not conflict therewith.

5. Pending the conclusion of agreements on the subject between Egypt and the United States the following treaties and conventions

in force between Great Britain and the United States shall extend to Egypt:—

- (a) Article X of the convention of August 9th 1842, the convention of July 12th, 1889, and the convention of December 13th, 1900 relative to the extradition of criminals fugitive from justice.
- (b) The convention of June 3rd, 1892 relative to the surrender of seamen deserters.
- (c) The treaty of March 2nd 1899 relative to the disposal of Real and Personal property.

It is reciprocally agreed that the system at present in force in the United States and in Egypt respectively in regard to imports from the other country and in regard to exports to that country shall not be in any way modified without notice which shall be given twelve months in advance. Nevertheless, the present arrangement shall not interfere with the right of the United States Government and of the Egyptian Government to introduce modifications in the existing customs regulations and duties provided that they apply equally to all other countries.

6. American schools of every denomination in Egypt shall continue to enjoy the same liberty as hitherto; they shall be subject to whatever laws are made applicable to all European schools in Egypt.

7. The United States Government agree, subject only to the consent of the other Powers concerned being obtained thereto, that all the powers and duties of the International Quarantine Board in Egypt shall pass into the hands of the Anglo-Egyptian authorities.

NOMINATION OF AN AMERICAN JUDGE TO THE MIXED COURT OF APPEAL¹²

883.05/194

The British Ambassador (Geddes) to the Secretary of State

No. 199

WASHINGTON, *March 16, 1921.*

SIR: I have the honour to invite reference to the note which Mr. Norman Davis was good enough to address to me under date of December 8th last,¹³ and to previous correspondence regarding the vacancy in the Egyptian Court of Appeal created by the retirement of Judge Tuck.

¹² For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 216 *passim*.

¹³ Not printed.

I understand that the United States Government do not wish to maintain the suggestion that Judge Crabitès should succeed to this vacancy and, if this assumption is correct, I should be grateful if I could be furnished with any names which the United States Government may wish that the Government of Egypt should take into consideration.

I have [etc.]

A. C. GEDDES

883.05/196

The British Ambassador (Geddes) to the Secretary of State

No. 238

WASHINGTON, *March 24, 1921.*

MY DEAR MR. SECRETARY: With reference to the note which I recently addressed to you, (No. 199 of March 16th), on the question of the appointment of an American Judge to the Egyptian Court of Appeal, I have now received through the Foreign Office the enclosed letters¹⁷ addressed by the Judicial Advisor to the Egyptian Ministry of Justice to Mr. Justice Brandeis, Mr. Justice Holmes, President Lowell and Professor Frankfurter, inviting their suggestions in connection with this appointment.

If you see no objection, perhaps you will be good enough to have these letters forwarded with some intimation that any names which the addressees may wish to put forward should be communicated to the State Department rather than to this Embassy.

Believe me [etc.]

A. C. GEDDES

883.05/196

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *May 10, 1921.*

MY DEAR MR. AMBASSADOR: With reference to your note No. 238 of March 24, 1921, and to previous correspondence concerning the designation of a successor to Judge Tuck on the Egyptian Mixed Court of Appeal at Cairo, I beg to inform you that the Government of the United States is still without information of such a character as to induce it to change its opinion as to the desirability of the elevation of Judge Crabitès to the Court of Appeal and the appointment of a new American Judge to one of the Courts of First Instance. It would be gratifying to this Government if the Government of Egypt could see its way to a withdrawal of its objections to the elevation of Judge Crabitès. If, however, the Egyptian Government should not be disposed to modify its attitude, the Government of the United States, desiring to interpose no unnecessary

¹⁷ Not printed.

obstacles to early action in filling the vacancy created by the retirement of Judge Tuck, would consent to the designation of Mr. Ellery Cory Stowell whose qualifications are described in the attached memorandum.¹⁸

This communication to you seems to make it unnecessary to transmit to Justices Holmes and Brandeis and to President Lowell and Professor Frankfurter, the letters addressed to them by Mr. Amos which were enclosed with your note of March 24th. Those communications are accordingly herewith returned to you.

I am [etc.]

CHARLES E. HUGHES

883.05/242a

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, September 20, 1921.

EXCELLENCY: I have the honor to refer to previous correspondence regarding the appointment of an American member of the Egyptian Mixed Court of Appeal to fill the vacancy created by the retirement of Judge Tuck.

I regret that neither of the two gentlemen suggested by this Government for the position has met with approval. Judge Crabitès who was proposed in the first instance seems to be well equipped in view particularly of his experience in the Court of First Instance. Mr. Ellery C. Stowell is in my opinion well qualified in view of his training and experience. Although it is the privilege of this Government to nominate a judge, the Embassy inquired in a note dated August 22, 1919,¹⁸ whether the nomination of Mr. Philip Marshall Brown would be agreeable to the Government of the United States. Mr. Brown is not a lawyer, and if a person who is not even a member of the legal profession may be deemed qualified to act as a judge of the Mixed Court of Appeal, it seems somewhat strange that objection should be made to a man of Mr. Stowell's attainments.

It is still the desire of this Government that either Judge Crabitès or Mr. Stowell should be selected for the post. However, I submit the additional name of Mr. Jasper Yeates Brinton, a short biographical sketch of whom is herewith enclosed.¹⁸

If none of these gentlemen is acceptable, this Government will probably have no further nominations to make and may, therefore, be under the necessity of refusing to consent to a renewal on October 31, 1921, of the existing arrangement with regard to the Mixed Courts.

Accept [etc.]

CHARLES E. HUGHES

¹⁸ Not printed.

883.05/231 : Telegram

The Agent and Consul General at Cairo (Sprigg) to the Secretary of State

CAIRO, October 26, 1921—6 p.m.

[Received October 27—12:45 a.m.]

32. Department's No. 20, October 18, 8 p.m.²⁰ Minister for Foreign Affairs has notified Agent of nomination and acceptance of Brinton for American vacancy. Minister now requests Agency to ask Department whether Government of the United States will immediately agree to prolongation of Mixed Courts according to arrangement proposed by Egyptian Government.

SPRIGG

ADHERENCE BY THE UNITED STATES TO AN INDEFINITE
PROROGATION OF THE MIXED COURTS

883.05/229 : Telegram

The Agent and Consul General at Cairo (Sprigg) to the Secretary of State

CAIRO, October 12, 1921—6 p.m.

[Received October 12—4:28 p.m.]

31. The Foreign Office has requested me to transmit by telegraph the following:

As the Mixed Courts terminate October 31st current, the adherence of the American Government is asked to a prolongation of these courts for an indefinite period from November 1st next, under reservation of the right of the Egyptian Government to end them upon giving a year's notice in advance to the interested powers.

SPRIGG

883.05/229 : Telegram

The Secretary of State to the Agent and Consul General at Cairo (Sprigg)

WASHINGTON, October 18, 1921—8 p.m.

20. Your 31, October 12, 6 P.M.

Position of this Government regarding extension of Mixed Court arrangement contingent upon action of appropriate authorities on our nominations for Appellate Court. British Embassy here so informed September 20.²¹

HUGHES

²⁰ *Infra.*

²¹ See note of Sept. 20 to the British Ambassador, p. 915.

883.05/229 : Telegram

*The Secretary of State to the Agent and Consul General at Cairo
(Sprigg)*

WASHINGTON, *October 27, 1921—4 p.m.*

21. Department's 20, October 18, 8 p.m.

Inform Egyptian Government Government of the United States consents to prolongation Mixed Court arrangement for an indefinite period from November 1st next subject to right to withdraw adherence to the arrangement at any time after one year. Also state that in case of abolition of Mixed Courts by Egyptian Government prior to institution of other courts acceptable to Government of the United States, this Government will of course be free to exercise all the jurisdictional rights conferred on it under the capitulations.

HUGHES

883.05/237

The Chargé at Cairo (Andrews) to the Secretary of State

No. 189

CAIRO, *November 25, 1921.*

[Received December 27.]

SIR: Referring to the Department's telegram No. 21 of October 24th [27th] last, relative to the prolongation of the Mixed Courts, I have the honor to enclose herewith copy of a communication addressed to me by the Director-General of the Ministry for Foreign Affairs, Robert Greg.

The fourth and fifth paragraphs of this letter refer to the subject of my telegram No. 38 of November 7th current,²² concerning the omission from the official published Decree of any reference to the American reservations.

Notwithstanding Mr. Greg's explanations I still think that it would have been more correct for notice to have been taken of the American reservations in the promulgatory Decree in view of the Egyptian Laws.

The first, second and third paragraphs refer to the sense of the Department's telegram No. 21 of October 24th [27th] last, communicated by the Agency to the Foreign Office by note dated October 28th last. Mr. Greg alleges that the phraseology of the reservations reading, quote "Under reservation to the Government of the United States of the right to withdraw its adherence to the arrangement at any time after one year" end quote, is susceptible of two interpretations: that it may be taken as meaning that the United States Government reserved a right similar to that reserved by the

²² Not printed.

Egyptian Government—to give one year's notice of withdrawal, a stipulation made by several Governments and one to which the Egyptian Government has no objection: but also that the phrase appears "open to the interpretation that the United States Government reserves the right to withdraw without notice at any time after a year from the date of the publication of the Decree, a stipulation which appears scarcely consonant either with American or with Egyptian interests".

Mr. Greg's note continues to say that he assumes that the first interpretation, the right to give one year's notice of withdrawal, is that intended by the United States Government; and he requests to be informed whether the United States Government concurs in this interpretation.

Previous to this note Mr. Greg had come personally to see me and asked me to interpret the phrase which as will be seen from the subsequent fact of his note, I of course declined to do.

I have [etc.]

WM. WHITING ANDREWS

[Enclosure]

*The Director-General of the Egyptian Ministry for Foreign Affairs
(Greg) to the American Chargé (Andrews)*

CAIRO, November 17, 1921.

DEAR MR. ANDREWS: With reference to my conversation with you yesterday I have the honour to inform you that since the despatch of Mr. Scott's note No. 1046 of November 1st concerning the reservations made by the United States Government adhering to the indefinite prorogation of the Mixed Courts, my attention has been drawn to a certain ambiguity in the terms of the first of these reservations as formulated in your note of October 28th. This reservation is contained in the following phrase.—"under reservation to the Government of the United States of the right to withdraw its adherence to the arrangement at any time after one year".

This phrase was interpreted both by Mr. Scott and by his Legal Adviser as meaning that the United States Government reserved a right—similar to that reserved by the Egyptian Government—to give one year's notice of withdrawal, a stipulation made by several Governments and one to which the Egyptian Government has no objection. The phrase appears, however, also open to the interpretation that the United States Government reserves the right to withdraw without notice at any time after a year from the date of the publication of the decree, a stipulation which appears scarcely consonant either with American or with Egyptian interests.

I assume that the first interpretation given above, namely the right to give one year's notice of withdrawal, is that intended by

the United States Government, and I should be much obliged if you would be good enough to inform me in due course whether the United States Government concurs in this interpretation.

With reference to your letter No. 7 of November 5th and to our conversation of yesterday in the course of which you expressed some surprise that no mention of the reserves formulated by the United States Government was made in the decree of October 31st proroguing the powers of the Mixed Courts, I should like to confirm the statement on this subject made to you by Mr. Hall in handing you Mr. Scott's Note of November 1st. It is not our custom to publish explanations in our decrees, such explanations or reservations being made in official correspondence between this Ministry and Foreign Agencies. This correspondence, however, is no less official and binding than a decree, and the position of the United States Government is therefore, in our opinion, fully safeguarded by our Note of November 1st. The same procedure—namely an acknowledgment by official note—has been followed in the case of all the other Powers, who made reservations in adhering to the indefinite prorogation of the Courts.

The position as regards France, Greece and Holland was altogether different since these Powers had not agreed to an indefinite prorogation. In the case of the French and Greek Governments an agreement concerning the precise terms of the reservations formulated had not been reached before October 31st, and in order to avoid the inconvenience which would have been caused by the total omission in the Decree of France and Greece, the French and Greek Diplomatic Agents agreed, as a temporary expedient and without conditions, to the prorogation of the Courts for three months. Similarly the Netherlands Government had only agreed to the prorogation for one year, and the decree therefore stated that in the case of French and Greek Nationals the prorogation was only valid for three months and in the case of Dutch Nationals for one year. As soon as agreement is reached with these three Governments for an indefinite prorogation a further decree will be issued. I trust this will make the position clear to you.

Yours sincerely,

ROBERT GREG

883.05/237

*The Secretary of State to the Agent and Consul General at Cairo
(Howell)*

No. 4

WASHINGTON, *February 24, 1922.*

SIR: The Department acknowledges the receipt of the Agency and Consulate General's despatch No. 189 of November 25, 1921, enclosing a copy of a communication from the Director General of the

Egyptian Ministry for Foreign Affairs, in which reference is made to what is regarded by the Director General as an ambiguity in a phrase contained in the Agency and Consulate General's note of October 28, 1921, informing the Egyptian Government of the consent of the Government of the United States to the prolongation of the Mixed Court arrangement for an indefinite period from November 1, 1921. The phrase in question is:

"under reservation to the Government of the United States of the right to withdraw its adherence to the arrangement at any time after one year."

This phrase the Director General considers susceptible of two interpretations: the first, that it is intended to reserve to this Government a right to give one year's notice of withdrawal from the Mixed Court arrangement; the other, that it is intended to reserve to this Government the right to withdraw without notice at any time after one year from the date of the promulgation of the decree prolonging the Mixed Courts. The reservation, if intended in the first sense, is said to be similar to that made by several other governments and to be unobjectionable to the Egyptian Government. On the other hand, if the reservation is intended in the second sense, the Director General suggests that it appears scarcely consonant either with American or with Egyptian interests.

You may inform the Director General of the Egyptian Ministry for Foreign Affairs that the right reserved by the Government of the United States, in consenting to the indefinite prolongation of the Mixed Court arrangement, is the right to withdraw its adherence to the arrangement at any time after the expiration of one year from November 1, 1921. You may state that the adherence of this Government to the Mixed Court arrangement will, after the expiration of one year from November 1, 1921, be literally for an indefinite period, and that although this Government, in authorizing the Agency and Consulate General's communication of October 28, 1921, did not see fit to indicate how long a time should elapse between the notification of its intention to withdraw and its actual withdrawal from the arrangement, it does not anticipate that circumstances will arise which will make it seem advisable to withdraw from the arrangement without giving notice of its intention well in advance of actual withdrawal.

As of interest to the Director General, in connection with the reservation above referred to, as well as in connection with the statement which the Department, in its telegram No. 21, of December [October] 27, 1921, authorized the Agency and Consulate General to make with reference to the freedom of this Government to

exercise all its jurisdictional rights under the capitulations in case of the abolition of the Mixed Courts by the Egyptian Government prior to the institution of other courts acceptable to this Government, you may call attention to the terms of the Proclamation of the President of the United States, on March 27, 1876, suspending the exercise of American extra-territorial jurisdiction in Egypt in so far as the jurisdiction of the Egyptian Mixed Courts, as then constituted, embraced matters cognizable by the Minister, Consuls, or other functionaries of the United States in Egypt. The Proclamation is printed in the United States Statutes at Large, Volume 19, page 662, and in *Foreign Relations of the United States*, 1876, page 1.

I am [etc.]

For the Secretary of State:
F. M. DEARING

FRANCE

NEGOTIATIONS TO ENSURE RECOGNITION OF THE RIGHTS OF THE UNITED STATES IN TERRITORIES UNDER MANDATE¹

800.01 M 31/61b : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*²

WASHINGTON, August 7, 1921—2 p.m.

377. In response to a recent request from the French Embassy for an expression of our views on the draft mandates for Togoland and the Cameroons,³ and in view of the fact that the draft "A" and "B" Mandates are now under discussion, the following memorandum setting forth our views with regard to the draft "A" and "B" Mandates has been handed to the French Chargé d'Affaires and also communicated to the British, Italian and Japanese governments.

You will so inform the Minister for Foreign Affairs and hand him a copy of the following memorandum :

"Before proceeding to the consideration of the precise terms of draft mandates, it is thought best to restate the general principles which are deemed to be involved.

1. This Government adheres to the position already stated that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated powers, and that there can be no valid or effective disposition of these territories without the assent of the United States as one of the participants in that victory.

2. This position of the United States is not opposed, but is confirmed, by the Treaty of Versailles, by which Germany renounces in favor of the Principal Allied and Associated Powers, of which the United States was designated to be one, all her rights and titles over her overseas possessions. It may further be observed that in providing, as stated in Article 440, for the coming into force of that treaty when it had been ratified by Germany and three of the Principal Allied and Associated Powers, it was manifestly not the intention that on such ratification by three Powers there should still remain in Germany any undivided share of title or sovereignty in the overseas possessions described. It would seem to be clear

¹ For texts of draft mandates, see pp. 96 ff.

² The same *mutatis mutandis*, Aug. 7, to the Ambassador in Italy as no. 134 and to the Chargé in Japan as no. 129 (file no. 800.01 M 31/61a, 61c). A somewhat similar telegram had been sent to the Ambassador in Great Britain on Aug. 4; see vol. II, p. 106.

³ Note of July 5; not printed.

that the renunciation set forth in Article 119 of the treaty was not intended to be divisible.

In the light of all the pertinent considerations, this Government perceives no possible basis for a claim that the other Principal Allied and Associated Powers would be entitled to exclude the United States from full participation, and the United States does not understand that any such claim is made.

3. The right of the United States in the territories in question could not be made the subject of such disposition as is proposed without its assent, and under its constitutional system the giving of this assent is not exclusively within the authority of the President. It is thought, however, that there would be no difficulty in negotiating an appropriate treaty if the terms of the mandates were defined in the line of the following suggestions. It is not the intention of this Government to raise objection to allocation or terms of mandates for the purpose of seeking additional territory or for any other purpose than to safeguard the interests of the United States and the fair and equal opportunities which it is believed the United States should enjoy in common with the other powers.

With respect to the Island of Yap there are special considerations, because of its characteristics and availability for communication purposes, and the questions pertinent to that island or to the "C" Mandates are not discussed in this memorandum.

4. With respect to mandated territories, other than those which were formerly possessions of Germany, while it is true that the United States did not declare war against Turkey, still the opportunity of the Allied powers to secure the allocation of mandates and the administration of territories formerly under Turkish rule was made possible only through the victory over Germany, and the United States assumes that by reason of its relation to that victory and of the fundamental principles recognized by the British Government⁴ as applicable to the administration of mandated territories, there would be no disposition in relation to any of these territories to discriminate against the United States or to refuse to safeguard equality of commercial opportunity.

5. With this understanding, and without attempting to restate the general principles governing mandates which have been the subject of previous correspondence between the two governments, this Government desires to submit the following special observations as to the forms of mandates which have been proposed:

Draft "A" mandates

(a). Capitulatory Rights. In the draft for Syria and Lebanon⁵ there is a provision in Article 5 not found in the mandates for Mesopotamia⁶ and Palestine,⁷ to the effect that foreign consular tribunals shall continue to perform their duties until the described new legal organization is set up. It is desired that there should be a similar

⁴Telegraphic instructions to omit the words "by the British Government" were sent on Aug. 8 to the Ambassadors in France and Italy and to the Chargé in Japan (file nos. 800.01 M 31/61f, 61g, 61h.)

⁵Ante, p. 99.

⁶Ante, p. 105.

⁷Ante, p. 110.

provision in the mandate for Mesopotamia, and that in the mandate for Palestine it should be provided that Capitulatory rights shall be continued until adequate courts are established. Provision should also be made in all "A" Mandates for the revival of capitulatory rights in the event of the termination of the mandate regime.

(b) Provisions against Discrimination. The limitation of protection in Articles 11 and 14 of mandates for Syria and Lebanon and Mesopotamia, and of Articles 18 and 21 of mandate for Palestine to states that are members of the League of Nations should be removed and the protection extended so as to embrace the United States. This could be effected by referring to any State mentioned in the annex to the covenant of the League of Nations. The reference to incorporated companies in Article 11 of the mandate for Mesopotamia and in Article 18 of the mandate for Palestine is too narrow and should be broadened to embrace societies and associations (see Article 11 of mandate for Syria and Lebanon).

It is desired that there should also be provision against discrimination in concessions. British "B" mandate for East Africa,⁸ Article 7 provides as follows:

'Concessions for the development of natural resources of the territory shall be granted by the mandatory without distinction on grounds of nationality between the nationals of all states members of the League of Nations but on such conditions as will maintain intact the authority of the local government.'

Similar provision should be inserted in "A" Mandates and broadened to embrace the United States.

There should also be appropriate provision against the granting of monopolistic concessions or the monopolizing of natural resources by the mandatory itself.

(c). Missionaries. In Mandate for Syria and Lebanon protection is accorded provided activities are confined 'to the domain of religion.' It would appear as if the intention were to restrict, if not to eliminate, educational and charitable missionaries. It is desired that present and future activities, both religious and educational, of our missionaries should be fully protected, and it is suggested that provision similar to Article 8 of the British "B" mandate for German East Africa be incorporated in all "A" mandates.

(d) It will be understood that the consent of the United States shall be necessary to any modification of a mandate after it has been agreed to.

Draft "B" mandates

(a) The provisions of Article 6 of the British and French mandates for the Cameroons and Togoland⁹ and of the Belgian mandate for German East Africa¹⁰ and of Article 7 of the British mandate for German East Africa are not extended to the nationals of the United States. This should be corrected, and it might be sufficient to substitute 'nationals of States mentioned in the annex to the covenant of the League of Nations' for 'nationals of States members of the League of Nations' in each of these articles.

⁸ *Ante*, p. 121.

⁹ *Ante*, pp. 125 and 129, respectively.

¹⁰ *Ante*, p. 133.

In the third paragraph of the same article in each mandate it should also be provided that monopolistic concessions should not be granted by the mandatory, nor should natural resources of the mandated territory be monopolized by the mandatory itself.

(b) Article 8 of the British mandate for East Africa is acceptable and its provisions should be substituted for those of the corresponding article numbered 7 in the other B mandates.

(c) Article 10 of the British mandate for East Africa contains a clause 'provided always that the measures adopted to that end do not infringe the provisions of this mandate', which might well be added to the corresponding Article 9 of the other B mandates.

(d) The consent of the United States will be necessary to modify the mandate terms."

HUGHES

800.01 M 31/89

The Ambassador in France (Herrick) to the Secretary of State

No. 1094

PARIS, December 29, 1921.

[Received January 12, 1922.]

SIR: With reference to the Embassy's telegram No. 702 of December 27, 1921,¹¹ transmitting the substance of the Foreign Office Note dated December 22, 1921, in reply to the observations embodied in the Department's telegraphic instruction No. 377, August 7, 2 p.m., I have the honor to transmit herewith for the information of the Department and such action as may be deemed appropriate, a copy and translation of the Foreign Office Note in question.

I have [etc.]

For the Ambassador:

SHELDON WHITEHOUSE

[Enclosure—Translation ¹²]

The French Minister for Foreign Affairs (Briand) to the American Ambassador (Herrick)

MR. AMBASSADOR: In accord with the Allied Governments, to whom the same memorandum was also communicated, the Government of the Republic has examined with the greatest care the memorandum of August 9, 1921, setting forth the views of the Government of the United States relative to the mandates for certain territories which, by the terms of the treaties of peace, cease to be under the sovereignty of the enemy powers.

The Government of the United States claims the right to take part in the measures for the disposition of these territories and, on

¹¹ Not printed.

¹² File translation revised.

this occasion, raises certain questions relative to the consequences of the nonratification by the United States of the Treaty of Versailles and of its nonparticipation in the war against Turkey.

Referring to the general principles governing mandates, principles established in the correspondence previously exchanged between the two Governments, the Government of the United States submits now for the examination of the Government of the Republic certain modifications which it believes should be embodied in the text of the French mandates.

The Government of the Republic has the honor to point out that it has never been its intention to deprive the United States of the fruits of a victory to which the latter so generously contributed. It is altogether disposed to meet, as far as it is concerned, the views of the United States; it does not therefore appear necessary to undertake a detailed discussion of the general considerations contained in the American note.

The cooperation of the United States in the elaboration of peace was the necessary corollary of its cooperation in the war and in the victory. The Treaty of Versailles, which was the result of that cooperation, was accepted by the Allied Powers on the presumption that it represented the common views of all those who had taken part in its preparation, after having combined their efforts to assure victory.

It is by reason of this presumption that the Allied Powers have accepted engagements not only with regard to Germany, but also with regard to each other, engagements from which it is impossible for them now to withdraw. The decision of one of the Allied and Associated Powers not to ratify the treaty does not change the obligations that this treaty has imposed on the powers which have ratified it, and does not release them from the obligations it contains. Neither can these powers now accept any new engagements which are not in accordance with the terms of this treaty.

The foregoing is particularly true as far as it concerns the overseas territories which formerly belonged to Germany. By the Treaty of Versailles, Germany has renounced all sovereignty over them; as is indicated in the American note, this renunciation was intended to be indivisible; Germany does not retain today any part of this sovereignty. But this sovereignty has been given up under the conditions inscribed in the treaty. Among the conditions there laid down appeared the assurance that these territories would be administered in the future by mandatories delegated by the League of Nations, and placed under its general control. The Allied Powers are bound to observe this engagement; they engaged themselves not only toward Germany but toward their own peoples to recognize and accept the special role and the functions of the League

of Nations in all that concerns the mandates for these territories; they are not free to agree with another power to any arrangements which are not in accordance with the engagements that they have taken.

In view of this situation, the Government of the Republic has the honor to formulate the propositions which appear to it to satisfy best the American views with regard to French mandates in Central Africa. As regards the mandates for the territories of the middle East, the position of these territories not yet being legally defined, the Government of the Republic will make this matter the subject of a later note:¹⁴

(1) The Government of the United States proposes that the words "nationals of States mentioned in the annex to the Covenant of the League of Nations" be substituted for the words "nationals of states members of the League of Nations" inserted in article 6 of the mandates for Togoland and the Cameroons and in article 7 of the English mandate for East Africa. Thereby the citizens of the United States would be included in this definition.

The Government of the Republic must point out, in the first place, that this modification would exclude the states which, although not mentioned in the annex to the Covenant, have become members of the League since the signature of the treaty of peace.

It must bring to mind, in the second place, that the object of the mandate regime is to render the mandatory powers responsible at all times for the discharge of certain duties toward the states which have adhered to the Covenant of the League of Nations. The Government of the Republic consequently considers it difficult to accept a proposition by which, in the very terms of the mandate, other states would be designated either by name or collectively.

It appears that the best way to meet the wish expressed by the American note would be that the French Government give to the Government of the United States the guarantee that citizens of the United States will enjoy in every respect in the mandated territories the same rights and privileges as citizens of states members of the League of Nations, it being understood that they will also be subject to the same obligations. This guarantee could be the object of an exchange of notes.

The Government of the United States expresses in addition the wish that paragraph 3 of the same article should stipulate that the mandatory will not grant any monopolies and that the natural resources of the mandated territories will not be monopolized by the mandatory itself. The Government of the Republic has no intention of granting concessions having the character of a general monopoly in the territories in question, nor of reserving for itself

¹⁴ Not received during 1921.

such concessions. It is necessary, however, in the interest of the territories under mandate, that the mandatory assure to the territories the fiscal resources which may appear best suited to local needs and, to this end, reserves the right to create monopolies for purely fiscal reasons. It is likewise necessary that the administration have the right to exploit in the way that it considers best those natural resources that can be employed in the public interest, as, for example, water power that can be utilized for the electrification of a railroad or for the production of light.

The insertion of the following paragraph, after paragraph 3 of article 6, would meet the preceding observations:

“There shall be granted no concessions having the character of a general monopoly. This clause does not impair the right of the mandatory to create monopolies of a fiscal character or, in certain cases, to develop the natural resources, either directly by the state, or by an organization subject to its control, provided that no monopoly of the natural resources will result therefrom to the benefit of the mandatory.”

(2) The Government of the United States asks that the text of article 8 of the British Mandate for Tanganyika be substituted for that of article 7 of the other African mandates.

The intention of the Government at Washington is apparently formally to assure to American missionaries the right to exercise freely their mission to Togoland and to the Cameroons, a right which up to the present has, in fact, been granted them by the French Government. This result can be obtained without any modification being made in the text of the mandate. The Government of the Republic is indeed disposed to give to the Government of the United States, insofar as concerns equality of treatment, a guarantee similar to that which is suggested above for article 6.

The Government of the Republic is disposed, moreover, to declare that, in the territories under mandate, the missionaries will have the right to acquire and possess property, construct buildings for religious purposes, and to open schools adding as a condition the words: “in conformity with the local law.”

Consequently, the text of article 7 would be drawn up as follows:

“Subject to the provisions imposed by the local laws for the maintenance of public order and public morals, the mandatory shall insure in the territory liberty of conscience and the free exercise of all forms of worship, and it shall permit all missionaries, nationals of states members of the League of Nations, to enter the territory, to travel there and to reside there for the purpose of carrying out their mission, to acquire and possess property, to construct buildings for religious purposes and to open schools, on condition that they conform to local law.”

(3) The Government of the United States asks that there be added to paragraph 2 of article 9 of the mandate for Togoland and

the Cameroons, the following words which are found in article 10 of the British mandate: "provided always that the measures adopted to that end do not infringe the provisions of this mandate."

The Government of the Republic has no objections to this addition.

(4) Finally, the Government of the United States expresses the wish that the consent of the United States be obtained before any change is made in the text of the mandates.

It would be difficult to insert in the mandate itself a clause of this nature, constituting an engagement between the League of Nations and a power which is not a member of the League. There is, however, no objection to the mandatory making in this respect special dispositions.

Under these conditions, the best way of meeting the wishes of the United States would seem to be that the Government of the Republic, as mandatory, give to the American Government the assurance that it will not propose nor accept any modification in the terms of the mandates without first consulting the Government of the United States.

The Government of the Republic hopes that the Government of the United States will feel that an exchange of notes will answer its requirements, and that there will be no delay in the publication of the mandates, which should not be deferred any longer.

Please accept [etc.]

For the Minister for Foreign Affairs

[PERETTI DE LA ROCCA]

PARIS, 22 December, 1921.

MAINTENANCE OF THE CAPITULATORY RIGHTS OF AMERICAN CITIZENS IN SYRIA

867.512/84

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

No. 251

BEIRUT, March 3, 1921.

[Received April 4.]

SIR: I have the honor to report that recently the Beirut Municipality declared a consumption tax on Gasoline and Benzine to be levied against Oil Companies operating in Beirut, where both the Standard Oil Company and the Vacuum Oil Company have agencies. After some investigation of the matter and discussion with the representatives of the American companies involved, I called upon the Acting High Commissioner and represented to him that the proposed tax as well as the increase in the Warehouse (Gas-khana) dues, which various municipalities were endeavoring to collect, were con-

trary to the immunities granted under the Capitulations as regards the former and the agreement between the Ambassadors at Constantinople and the Turkish Government as regards the latter. Mr. De Caix was in entire accord with my views on the subject, but stated that he was faced with a municipal crisis inasmuch as the members of the Municipality threatened to resign unless he permitted them to levy the proposed consumption tax. He stated that in view of the altered political status of this country, being as it was cut off from the former Turkish Empire, and the need of the municipalities for revenue to execute the work necessary for reconstruction and for the maintenance and improvement of the towns, and in view of the fact that upon the forthcoming abolition of the Capitulations, the Municipality will have the right to levy such taxes which, however, he stated, would be kept within reasonable bounds, he asked whether it would not be acceptable to the Oil companies to pay something to the municipalities, more or less, in anticipation of taxes that might be levied in future. In reply to his suggestion, I reminded him that before taxes of this character could be levied, the consent of the Capitulatory Powers must be secured. I, thereupon, suggested that he should have the subject of all new taxation, which they had attempted or might desire to levy against foreigners, carefully studied, and a proposal drawn up and sent to me, as *Doyen* of the Consular Corps, for ultimate transmission to our respective Governments for their consideration. He readily agreed to have this done. I, thereupon, asked him to inform the Municipality that the matter was now to be made the subject of diplomatic negotiations with the Powers, and that, in the meantime, no attempt be made to collect the tax, and that the Police Authorities, who were at that moment preventing the deliveries of oil, be instructed to permit the continuation of deliveries. Mr. De Caix promised to do this, and his order went into practical effect a few days afterwards.

I report these preliminary steps at the present time for the Department's information, and will report again on the subject as soon as I receive the proposal of the Government, as above indicated.

I have [etc.]

PAUL KNABENSHUE

890d.512/30

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

No. 334

BEIRUT, *July 6, 1921.*

[Received July 30.]

SIR: I have the honor to refer to my despatch No. 251 of March 3, 1921, relative to my negotiations with the French High Commissioner in order to cause the discontinuance of the collection of new

taxes from foreigners which had been levied contrary to Capitulatory exemptions.

The most important taxes were those on petroleum and benzine, levied by the various Municipalities throughout Syria.

The general principle involved as put forward by me as *Doyen* of the Consular Corps, and also on behalf of the large American oil interests here, was accepted by the French authorities, and these taxes were immediately stopped as regards the Municipality of Beirut. However, with the greatest difficulty, and after considerable correspondence and personal interviews with the officials concerned, it was only on May 7, 1921, that I finally succeeded in causing the Haut Commissariat to send instructions in the matter to their Counsellors in the respective administrative zones (A copy of such instruction is enclosed). Even this did not prove sufficient, for considerable delay ensued before the instructions were communicated to the various Municipalities, and this was done only after my repeated strong representations in the matter. So far as I am aware, all the Municipalities have now received the instruction.

The next step in the proceedings is to be the submission to the Consular Corps of a proposal from the French High Commissioner that the Capitulatory powers accept, at least temporarily, the imposition of certain taxation upon foreigners. A French committee is at work on the text of the proposal and it is believed that it will be ready shortly. I will transmit the proposal to the Department with my observations.

In the meantime, I have the honor and gratification in reporting that through my incessant efforts, American citizens and other foreigners residents in Syria are not being obliged to pay any of the new taxes instituted since the beginning of the war.

I have [etc.]

PAUL KNABENSHUE

[Enclosure—Translation]

*The French High Commissioner ad interim in Syria and the Lebanon
(De Caix) to the Counselors in the Administrative Zones*

Department of Finance
No. 2042/D.F./8

BEIRUT, May 7, 1921.

The Consular Corps has laid before me various complaints against the subjection of foreign nationals to the payment of certain taxes or dues not consented to by the Foreign Powers, and particularly the tax on petroleum which is being collected in Beirut, Latakia and Aleppo.

No matter how much equity may be in favor of collecting these taxes or dues, it should be taken into consideration that as long as

the regime of mandate is not as yet sanctioned, the capitulations continue to exist.

I am therefore obliged to admit the legal status of these complaints and to allow every advantageous measure to give them satisfaction.

In view of the above, I have the honor to ask you to suspend immediately the collection of every state or municipal tax from foreign subjects, the collection of which taxes are not approved of by the Foreign Powers. All the taxes created since the outbreak of the war are included in this category, as well as the removal of the taxes put into effect since that same date. The taxes which had been originally accepted will continue to be collected at the pre-war rate.

It is in the province of your office to send me a list of these taxes in order that propositions for their acceptance may be made to the Consular Corps.

These propositions should reveal the fact that they are of public utility and general interest, as well as the character of remuneration for a service rendered, as in that case their application on the foreigners will be considered as equitable.

ROBERT DE CAIX

711.673/135

The Consul in Charge at Damascus (Allen) to the Secretary of State

No. 57

DAMASCUS, *October 13, 1921.*

[Received November 8.]

SIR: I have the honor to inform the Department that I have today been advised verbally by the Director of Consular Services (formerly Minister of Foreign Affairs) of the State of Damascus and by the French Legal Adviser to the local government that a controversy in which I have been engaged with the government for some time over the correct interpretation of Article IV of the Treaty of May 7, 1830¹⁵ has been decided in my favor, that is to say, in favor of the point of view of the Department of State, and that henceforth American citizens accused of crime or misdemeanor in this jurisdiction will be immediately turned over to this office for trial.

I had occasion to bring this matter up when the local government, in accordance with the procedure usual in the case of other powers whose nationals enjoy capitulatory rights, sent me for execution a sentence passed prior to my arrival here against the American citizen, Nejb Meshaka, accused and convicted of a constructive assault against his uncle. I returned the sentence with a statement to the

¹⁵ With Turkey; see Miller, *Treaties*, vol. 3, p. 541.

effect that it was in contravention of the article and treaty above-mentioned, was therefore in contravention, not only of American law, but of local law, and could not be lawfully executed by any authority.

Locally speaking it is a considerable victory for this office over the government but it is quite evident that no particular credit is due me seeing that I merely made use of arguments advanced by the Department a long time ago. A great deal of credit is due the French Delegation however in having obliged the local government to accept unconditionally our point of view in the matter. This is merely another example in proof of what I have continuously insisted upon, namely, that the French themselves make a distinction between the State of Damascus and the remainder of Syria. . . .

I have [etc.]

CHARLES E. ALLEN

890d.512/21

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

No. 437

BEIRUT, November 2, 1921.

[Received November 29.]

SIR: I have the honor to refer to my despatches, No. 251 of March 3, No. 334 of July 6 and No. 351 of August 3,¹⁶ relative to the taxation of foreigners in Syria contrary to capitulatory exemptions, and to inform the Department that as indicated in my former despatches, the Government here proposed to draw up a new schedule of taxes and to submit it to the Capitulatory Powers for consideration and approval in so far as such taxes might be applicable to foreigners.

The proposal in question was submitted a few weeks ago to the various foreign consuls in Beirut. The Consular Corps here has met several times to discuss jointly the proposal. At the last meeting, held on October 28th, three representatives of the local Government were present, by invitation, to explain certain features of the proposal which appeared to require further elucidation. Another meeting of the Consular Corps will be held within a few days, when it is proposed to draw up a joint resolution on the subject for submission by each consular representative to his government.

I have just received from Consul Jackson at Aleppo a copy of his despatch No. 708 of October 29, 1921,¹⁷ giving his observations in

¹⁶ No. 351 not printed.

¹⁷ Not printed.

connection with the new tax proposal. Inasmuch as the Consular Corps at Beirut have given considerable time and study to this question, in order that the various consuls may submit to their respective governments a carefully considered recommendation for consideration and appropriate action, it is respectfully suggested that the Department take no action in the matter until my report on the subject is received. The Department will, of course, understand that the action of the Consular Corps in Beirut and its relations with the Government here in connection with this matter have been entirely confined to a study of the question and not negotiations. The local Government has been informed by the Consular Corps that the entire matter must, of necessity, be referred to the Capitulatory Powers for consideration and appropriate action, and that no assurances in connection with or acceptance of the provisions of the new tax proposal can be given by the respective consuls unless so authorized by their governments.

It is hoped that my report covering this question will be transmitted to the Department in about two weeks' time.¹⁸

I have [etc.]

P. KNABENSHUE

711.673/143

The Consul in Charge at Damascus (Allen) to the Secretary of State

No. 103

DAMASCUS, December 27, 1921.

[Received January 26, 1922.]

SIR: I have the honor to transmit herewith in translation a copy of a letter which I have just received from the local French Delegation¹⁹ which in turn transmits a copy of a letter [from] the French High Commissioner at Beirut directing the recognition of the American point of view as regards the correct interpretation of Article IV of the Treaty of May 7, 1830.

In my despatch No. 57 of October 13 I reported that I had been advised verbally by the Director of Consular Services of the local government and by the French Legal Adviser that this point of view had been accepted. I was later informed by the Director of Consular Services that he had been reprimanded by the Governor-General for so advising me and that the government was not yet disposed to accept the American point of view.

It happened that at this moment an American citizen, George Haddad by name, became involved in a brawl with a policeman

¹⁸ The report to which the consul refers was not sent until Feb. 9, 1922 (file no. 890d.512/9). Its purport is indicated in the telegram of Jan. 21, 1922, p. 936.

¹⁹ Not printed.

and this gave the government an opportunity to reopen the discussion. It accordingly dropped the question of Nejb Meshaka treated in my despatch No. 57 and took up with some vigor the question of George Haddad. I naturally declined to recede from the position I had taken and while the correspondence was being carried on, I placed Haddad under arrest on a warrant charging him with disorderly conduct, continued the case once in order to give the government every opportunity to compel the aggrieved policeman to appear as a witness, and when he did not appear at the second hearing, I dismissed the charge for want of evidence.

The receipt of the enclosed letter from the French Delegation was the culmination of the matter. Attention is called to the fact that in this case the assurances are written instead of verbal.

I have [etc.]

CHARLES E. ALLEN

[Enclosure]

*The French High Commissioner ad interim in Syria and the Lebanon
(De Caix) to the French Delegate ad interim at Damascus
(Schoeffler)*

No. 2455

BEIRUT, December 19, 1921.

In reply to your letter 1490/SJ, I have the honor to inform you that I consider correct the solution given by your delegation to the question raised by the Government of Damascus. In fact it is approved by both Young and Mandelstamm and is in conformity with all the precedents. Article IV of the Treaty of 1830 is susceptible of two interpretations according as one consults the English or the Turkish text. But in spite of the efforts of the Sublime Porte, the United States have always maintained and caused to be respected the English interpretation according to which not only the imprisonment but also the arrest of American subjects is denied to the local authorities. In 1868, 1877, 1888, 1889 and 1895 the United States carried their point of view. The entire discussion hinging upon the word "tedib" which Turkey interpreted in the sense of "punish" and not of "arrest and try", by comparison with Article VIII of the treaty concluded between the Sublime Porte and the Hanseatic Cities where the word "tedib" has, as shown by the context, a wider meaning, there seems to be no doubt that this same word in Article IV of the treaty of 1830 should be given the meaning that "the Americans shall be chastised (tried) by their Consuls". Thus the local authorities cannot, to my mind, either arrest, try or imprison an American subject.

ROBERT DE CAIX

890d.512/11 : Telegram

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

[Extract]

BEIRUT, *January 21, 1922—7 p.m.*

[Received January 22—4:28 p.m.]

Referring to my despatch number 437, November 2d. With regard to the proposal to tax foreigners, I have the honor to report that the deliberations of the consular corps have just come to an end and that the findings thereof together with all the documents and data in the matter are now ready for the formulation of my report.²⁰

Last evening Acting High Commissioner in the presence of Judicial Adviser handed me a copy of new ordinance, not yet announced, establishing a new judicial organization for Syria with the request, after a long explanation, that I submit it to my Government for its consideration with a view to my Government's acceptance of the jurisdiction of the new courts for American citizens in lieu of the consular courts. Please see page 17 of the report transmitted my despatch number 342, July 27th.²¹

The proposals for taxation and judicial reforms involve at least a temporary suspension of our most important rights under the Capitulations. Because of the unsettled general political situation in the Near East it would not be advisable under ordinary conditions to accept at this juncture any proposal affecting our rights in this country but, because of the particular and peculiar conditions in Syria and because of the nature of the reasons for and conditions involved in the French proposals coming as they do from a friendly Christian power, extenuating circumstances have arisen which would seem to make it incumbent upon the United States Government to give at least serious consideration to the proposals now made. In addition to the question of policy involved therein, however, consideration should be given to the probable effect thereof upon American interests here which are extensive and important and in this respect adequate guarantees would have to be exacted.

KNABENSHUE

²⁰ Despatch no. 580, Feb. 9, 1922; not printed.

²¹ Not printed.

FRENCH REGULATIONS APPLICABLE TO AMERICAN CITIZENS OF FRENCH ORIGIN REGARDED BY FRANCE AS DESERTERS OR DEFAULTERS DURING THE WORLD WAR

351.117/159a

The Secretary of State to the Ambassador in France (Wallace)

No. 283

WASHINGTON, November 22, 1919.

SIR: The Department has received a number of inquiries from naturalized American citizens of French descent and from persons born in the United States of French parents, regarding their liability to punishment for their failure to comply with the military service regulations of the French Government, in the event that they return to or visit France for a temporary sojourn for business or personal reasons.²² In a great majority of these cases the persons in question have fully complied with the military service laws and regulations of the United States. The matter has been taken up with the French Embassy at Washington in two notes of June 28, 1919, and September 15, 1919, respectively, copies of which are enclosed,²³ but up to this time the French Government has not replied to the notes. The French Government has, however, given certain assurances in respect to persons who were regarded as French citizens but who were serving or had served in the American Army. The substance of these assurances is contained in the Department's note of August 3, 1918, a copy of which is also enclosed.²⁴

The Italian Government, whose military service laws appear to be no less strict than those of France, has given this Government formal assurances that American citizens, of Italian extraction, as well as persons who have retained their Italian nationality, who were under obligations of military service in the Kingdom of Italy and who did not return to that country for such service, may freely visit Italy without molestation, provided they carry with them their discharge from the American Army or an extract from the records showing that they have served in the American forces, or were exempted or given deferred classification for such service under the laws and regulations in force in the United States. The assurances of the Italian Government with respect to American citizens have been embodied in a statement bearing date of April 12, 1919, which was prepared by the Department for the information of American citi-

²² Inquiries not printed.

²³ Not printed.

²⁴ *Foreign Relations*, 1918, supp. 2, p. 718.

zens, of Italian birth or parentage, desiring to return to Italy. A copy of this statement is enclosed for your information.²⁵

The Department has also taken the matter up with the Greek Government, and is just now in receipt of a cable from the American Minister at Athens, in which it is stated that he has been formally notified that American citizens, of Greek origin, and all other Greeks who have served in the American Army will be exempted from further service in the Greek Army.²⁶

You are instructed to inquire whether, in view of the Convention of September 3, 1919 [1918], between the United States and France, providing for reciprocal military service;²⁷ in view of the fact that this Government and the Government of the French Republic were associated as cobelligerents in the war against Germany and Austria; and in view of the attitude taken by the other Governments enumerated above with respect to similar cases, the French Government will not furnish this Government with an assurance that American citizens who may, by law be considered liable to military service in the French Army, but who have fully complied with the military service laws and regulations of the United States during the present war, will, upon their return to France for a temporary sojourn, be free from molestation, provided that they present official documentary evidence of their compliance with the military service laws and regulations of the United States.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

351.117/167

The Ambassador in France (Wallace) to the Secretary of State

No. 729

PARIS, *January 15, 1920.*

[Received January 31, 1920.]

SIR: Referring to the Department's instruction, No. 283 of November 22, 1919 and the Embassy's telegram, No. 88 of January 10, 1920,²⁸ relative to the liability to military service in the French Army of naturalized American citizens of French descent or persons born in the United States of French parents should they return to France for a temporary sojourn, I have the honor to enclose, in copy and translation, the answer which has been received, under date of January 5, 1920, from the Ministry of Foreign Affairs.

I have [etc.]

HUGH C. WALLACE

²⁵ Not printed.

²⁶ See telegram no. 861, Nov. 18, 1919, from the Minister in Greece, vol. II, p. 164.

²⁷ *Foreign Relations*, 1918, supp. 2, p. 723.

²⁸ Telegram no. 88 not printed.

[Enclosure—Translation *]

The French Minister for Foreign Affairs (Pichon) to the American Ambassador (Wallace)

PARIS, January 5, 1920.

MR. AMBASSADOR: By a letter dated December 12th, last,²⁹ Your Excellency was good enough to call my attention to the status of those persons who, belonging both to the French nationality and the American, have served in the forces of the United States during the hostilities.

Referring to the terms of the convention of September 5 [3], 1918, the American Government suggests that conditional to their showing proof of their compliance with the stipulations of the American military laws, persons of the category specified should not be called upon to perform military service in France in the event of their sojourning for more or less time in that country.

I have the honor to point out to Your Excellency that the sole object of the convention above mentioned was to prevent American citizens residing in France and French citizens residing in America from taking advantage of their presence on foreign soil to elude their military duties, by obliging them, should they not enlist in their own national armies, to take service in the military formations of the country in which they were residing. The convention has in nowise determined any ruling relative to the status of the said individuals with regard to their country of origin. Article 5 even specified very clearly that the citizens of either country serving in the ranks of the other shall not thereby lose their nationality; this stipulation implies that their status with regard to their mother country remains unchanged. If they are considered by the latter as delinquents who have not responded to the call to the colors, the fact of having served in the army of the other country does not efface their delinquency. Nevertheless, inasmuch as by serving with an Allied army these persons have served a common cause, the French Government has already agreed with Italy, for instance, that it considered as having met the military obligations imposed by France proportionately with the service given during the war or the time passed in captivity, those Frenchmen who have fought in the Allied army. Thus a person belonging both to the French and the Italian nationality who has given two years' service in the war in the Italian Army, will have to give only one year's service in the French Army where the active service is for three years.

²⁹ File translation revised.

³⁰ See instruction no. 283, Nov. 22, 1919, to the Ambassador in France, p. 937.

In June 1917, the French Government gave notice through its representative at Washington of similar measures to be applied in regard to Frenchmen serving in the American Army.

The French Government is unable to do more than to consider as though it were service in its own Army that accomplished in the Army of the United States. It cannot concede a premium of reduced military service in time of war to persons who, according to the laws it is bound to enforce, are of French nationality, because they have been incorporated in an Allied army during a shorter period of time than that imposed upon their compatriots, whereas, to begin with, they may have even in some cases eluded the obligations fulfilled by the latter.

Despite its earnest desire to be able to give satisfaction to the request presented by Your Excellency, the French Government does not deem it possible at this time, still so close to the termination of the war which has inflicted such terrible sacrifices upon the French population, to create a regime of favor on behalf of a special category of persons who, so long as they shall be considered as such, are legally French citizens.

With assurances [etc.]

For the Minister and by authorization:

MAURICE HERBETTE

The Minister Plenipotentiary, Director

351.117/167

The Secretary of State to the Ambassador in France (Wallace)

No. 408

WASHINGTON, *March 31, 1920.*

SIR: The Department acknowledges the receipt of your cable No. 88 of January 10, 1920,³¹ and your despatch No. 729 of January 15, 1920, in which the refusal of the French Government to give assurances to this Government that American citizens of French origin who have complied with the military service regulations of this Government during the war, will not be molested as military delinquents upon entering French jurisdiction for temporary sojourn, is set forth. You state in the cable that there are several cases, before the Embassy, of persons who would come within the class covered by the requested assurances, and ask instructions as to the line of action to be pursued in regard to them.

In reply the Department instructs you that insofar as any of the cases before the Embassy come within the assurances referred to in the Department's note of August 3, 1918,³² to the French Ambassador

³¹ Not printed.

³² *Foreign Relations*, 1918, supp. 2, p. 718.

at Washington, a copy of which was enclosed in the Department's instruction No. 283 of November 22, 1919, to urge the treatment of such cases in accordance with the assurances given and to reserve the right of this Government to make further representations at a later date should it be deemed desirable. Insofar as any of the cases before the Embassy do not come within the assurances referred to, you are instructed to use your good offices in an endeavor to render the persons such assistance as may be possible and to take no action which would prejudice the right of this Government to make representations later should it desire to do so.

The Department desires to be furnished with a statement of the facts in any cases now pending with the Embassy in order that it may give the matter further consideration; also that you obtain from the French Government, and transmit to the Department at your earliest convenience, a copy of the notice stated in Mr. Herbette's note of January 5, 1920, to have been given by a representative of the French Government at Washington in June 1917, in regard to the allowance that would be made in France, to persons who were regarded as French citizens, under the French law, but who had served in the military forces of the United States.

You will also kindly endeavor to ascertain, and report at your earliest convenience, the details of the agreement between the French and Italian Governments, which Mr. Herbette refers to, under which an allowance is said to be made under the French military establishment, for service performed by French citizens in Italy. The terms of the agreement, if any, insofar as they relate to persons who complied with the military service regulations of Italy but who were not accepted for service in the Italian Army, are particularly desired, as well as the provisions of the agreement, if any, as relate to persons who served in the Italian military establishment but who did not see active service with combat troops.

I am [etc.]

BAINBRIDGE COLBY

351.117/193

The Ambassador in France (Wallace) to the Secretary of State

No. 1261

PARIS, June 4, 1920.

[Received June 21, 1920.]

SIR: Referring to the Department's Instruction No. 408 (File No. So-351.117/167) of March 31st, 1920, relative to the eventual allowance for military service in the American Army by persons regarded as French citizens, under the French law, I have the honor to state that I brought this matter in detail to the attention of the Ministry for Foreign Affairs, asking information on all the points raised by the Department in the aforesaid Instruction.

I have the honor to enclose, in copy and translation, the reply received from the latter,³³ together with the text of the communication made by the French Ambassador at Washington to the Federal Government in the premises. It is to be noted that the copy of the latter document which is submitted to the Embassy bears no date and no indication showing to whom it was addressed.

Annexed to the Note in question, also forwarded in copy and translation, is the text of the agreement between the French and Italian Governments granting an allowance for service performed by French citizens in Italy.³³

I have [etc.]

HUGH C. WALLACE

[Enclosure—Translation]

*The French Ministry for Foreign Affairs to the French Ambassador at Washington*³⁴

I have the honor to inform you that the Minister of War is disposed to extend the benefit of the circular of June 3rd, 1915 to Frenchmen passed over or considered as defaulters who may take service in the American Army. The terms of this circular are as follows:

By extension of the authorization granted on October 11th last to French citizens residing in Russia, who found it materially impossible to return to France, mobilisable men residing abroad who, prevented by circumstances to rejoin the corps to which they are assigned, have served during the campaign in the ranks of one of the allied Powers, shall be considered as having satisfied, for the duration of the war and in proportion to the time passed under the colors of this army or in captivity, the military obligations imposed upon them by French law.

The benefit of this provision may be claimed by all Frenchmen residing abroad, who, not having been regularly served with the general mobilization order shall have prior to the summons served on them since then, enlisted in the armies of one of the allied Powers.

This favor shall be granted to all Frenchmen concerned, under reservation that they shall serve on the French front and that their military status shall be reported to the Minister of War through my intermediary so that it may be made regular either by the census of the men passed over, or by the crossing off of the names of the defaulters on the list of defaulters. The benefit of this measure shall apply to all those who have been passed over, whether excused or

³³ Not printed.

³⁴ So described in the covering note from the French Ministry for Foreign Affairs (not printed).

not, on account of the present difficulty of distinguishing them one from another.

As and when the men concerned are drafted to France, our consuls shall send me the lists of our defaulting nationals present under the American colors and these lists shall mention, according to the case, the last place of residence of these Frenchmen or the recruiting office at which they are registered on the date of their engagement in the Federal army and the date on which they are sent to the French front.

851.111/169

The Ambassador in France (Wallace) to the Secretary of State

[Extract]

No. 1295

PARIS, June 18, 1920.

[Received June 29.]

SIR: Referring to my cablegram No. 1232 of the 1st instant,³⁵ and to previous correspondence regarding the situation of persons of dual nationality who come to France without having discharged their military obligations under the French law, I have the honor to transmit herewith in copy and translation a Note dated June 7th from the Ministry for Foreign Affairs, in which the status of the several classes of such persons is defined.

HUGH C. WALLACE

[Enclosure—Translation]

The French Minister for Foreign Affairs (Millerand) to the American Ambassador

PARIS, June 7, 1920.

MR. AMBASSADOR: In reply to the notes of the Embassy under date of April 3rd and 29th last, I have the honor to inform you that the Minister of War has examined the situation of French deserters and defaulters who, having acquired American nationality, take up residence on French territory.

As regards deserters, as they can in no case plead their good faith, and as, moreover, the law demands their appearance before the Court Martial, no favor can be granted them.

As regards defaulters, in whose interest indulgent measures have been considered, the Minister of War will decide their case accord-

³⁵ Not printed.

ing to the following distinctions, in the establishment of which account has been taken, both of the date of the acquisition by them of American nationality and the date on which they were declared defaulters.

1. Those born in America of French parents shall be considered as released from their military obligations in France if they have satisfied the American military law and they will not be molested in case they return to France.

2. Those born in France, but who acquired American nationality before they were declared to be defaulters, may, if they have enlisted in the American Army, be admitted for temporary residence in France without risk of molestation for their offense of default; it will be sufficient for them to request to this end a special authorization from the French Embassy at Washington which, in granting it to them, will fix the duration of their residence.

Those among them who may have been exempted from military service in the United States for reasons of health, may be definitely taken off the list of control of defaulters in France on condition that they are also considered by the physician which the French Embassy will designate as unfit for French military service.

3. Those who have only acquired American nationality after their declaration as defaulters shall be treated as follows:

If the default dates before the war, the law shall be rigorously applied, the principle of the allowance for services, the benefit of which has been recognized as granted to the said defaulters, applying to the period of service accomplished during the war, but not effacing the offense of default for which they will continue to have to answer on their return to France.

If the declaration of default is subsequent to the beginning of hostilities, their names will be taken off the list of control of defaulters in case they enlisted in the American Army before they were called in France, but they will remain liable for the remainder of their regular period of service after application of the allowance for service. In all other cases, proceedings remain "possible".

On the other hand, it will devolve on the Minister of War to decide concerning the particular cases which may arise from the putting in operation of the principles thus laid down, which, moreover, only bear on penal procedure for default; the prescriptions of the Civil Code relative to the attribution of French nationality, *jure sanguinis* and the necessity of an authorization of the Government for the valid acquisition in the eyes of French law of a foreign nationality by means of naturalization remaining outside the question.

I am asking the French Ambassador at Washington to inform the Federal Government of these general decisions; I wish however, to

communicate them to Your Excellency in the hope that you will appreciate the good will shown by the Government of the Republic to give the greatest satisfaction possible to the desiderata of American opinion in this important matter.

Please accept [etc.]

For the President of the Council,
Minister for Foreign Affairs and by order:

PALÉOLOGUE
The French Ambassador, Secretary General

351.117/193

The Secretary of State to the Ambassador in France (Wallace)

No. 589

WASHINGTON, August 30, 1920.

SIR: The Department has received your despatch No. 1295 of June 18, last transmitting a copy of a communication dated June 7 from the French Ministry for Foreign Affairs in which the status in regard to military liability of certain naturalized American citizens of French origin is defined. It is observed therefrom that persons who may be considered deserters under French law will be required to appear before the Court Martial upon their return to France and will be dealt with in the usual manner, and that persons who may be regarded as defaulters under the French military law will be dealt with according to certain stated distinctions. Classification No. 3 of the communication of the Ministry for Foreign Affairs reads in translation as follows:

“Those who have only acquired American nationality after their declaration as defaulters shall be treated as follows:

“If the default dates before the war, the law shall be rigorously applied, the principle of the allowance for services, the benefit of which has been recognized as granted to the said defaulters, applying to the period of service accomplished during the war, but not effacing the offense of default for which they will continue to have to answer on their return to France.

“If the declaration of default is subsequent to the beginning of hostilities, their names will be taken off the list of control of defaulters in case they enlisted in the American Army before they were called in France, but they will remain liable for the remainder of their regular period of service after application of the allowance for service. In all other cases, proceedings remain ‘possible.’”

In view of the communication from the French Government transmitted with your despatch No. 1261 of June 4 last, which restricted the deduction of service in the American Army of persons held to be liable under French law for military service in France to those persons only who served in the American Army on the French front, the

Department desires you to obtain from the French Government an amplification and a more definite expression of its attitude toward the persons described in Section 3 quoted above. It would seem from the interpretation of the whole communication that the French Government proposes to allow the deduction from the regular period of service in the French Army of the entire period of service performed in the American Army and that such deduction will be allowed whether or not the person served on the French front.

It is also requested that you ascertain from the French Government its attitude toward persons who registered for military service in the United States and who were given deferred classification for reasons other than physical unfitness. As many American citizens of French origin meet with hardships through their ignorance of the attitude of the French Government toward them upon their return to France, you will please report promptly to the Department.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

851.111/188 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 15, 1921—4 p.m.

87. Recently numbers of naturalized American citizens of French origin have complained to the Department that, when they applied to have their American passports visaed for France, French consular officers in New York City and elsewhere declined to recognize them as American citizens and insisted that they must use French passports, describing them as French citizens. In one case it was stated that the French Vice-Consul in New York City told an applicant that he must renounce allegiance to the United States and assume allegiance to France in order to visit that country. This Government, regarding it as objectionable for French officials in the United States to advise American citizens to renounce their allegiance to this country, or to take French passports, or to do anything which involves disowning American citizenship, desires you to request that French consuls be instructed to that effect. Please state also that, while it is realized that in view of the conflict of laws of the two countries, complications may arise regarding the status of persons having a dual nationality, it is hoped that, until such difficulties can be obviated by a satisfactory treaty of naturalization, which is greatly to be desired, the French Government may be able

to make arrangements under which persons owing allegiance to the United States and whose allegiance is also claimed by the French Government may, when they find it necessary to visit France, be enabled to do so without in any way being called upon to disown allegiance to the Government of the United States, which naturalized citizens have obligated themselves by solemn oath to observe. Enquire whether, with a view to the elimination of unfortunate difficulties for the two Governments and for their respective citizens, and in harmony with the growing tendency toward a more liberal and uniform practice among nations in dealing with questions relating to the loss and acquisition of nationality, the French Government may be willing to take up the negotiation of a naturalization treaty.

COLBY

351.117/212

The Ambassador in France (Wallace) to the Secretary of State

No. 2300

PARIS, *March 31, 1921.*

[Received April 12.]

SIR: With reference to the Department's despatch No. 589 of August 30th, 1920 (File No. 351.117/193), and to previous correspondence relative to the military liability of certain naturalized American citizens of foreign origin, I now have the honor to transmit to the Department copy and translation of a Note from the Ministry for Foreign Affairs⁸⁷ in reply to a Note from the Embassy of October 14th, 1920, in this connection.

The Note from the Minister includes the text of a circular which was addressed by the Minister of War to the various military authorities.⁸⁸ This circular concedes to the desire of the Department that the equivalence of service is not made subordinate to the condition that the service has been performed on the French front. It is sufficient that the defaulters have seen service in the American Army, whether or not they served in France. The cases in which exemption from military service has been granted are only recognized when they are in accord with American legislation similar to the cases admitted by the French law covering ill-health or physical disability.

I have [etc.]

HUGH C. WALLACE

⁸⁷ Not printed.

⁸⁸ Circular printed as enclosure hereto.

[Enclosure—Translation ⁸⁹]*Circular by the French Minister of War to the Various French Military Authorities*

No. 18338-2/10

PARIS, March 10, 1921.

The Government of the United States has called my attention to the following question:

May not a man who has preserved his French citizenship in the eyes of the French law, but who has become an American citizen through naturalization or birth in the Federal territory, return to France and sojourn there temporarily on business or for any other personal reason without risk of being disturbed, provided he holds a certificate to the effect that he has complied with the military laws of the United States?

I have the honor to communicate to you hereinbelow the *modus vivendi* which I deemed it my duty to adopt on this question with the consent of the Guardian of the Seals and the Minister of Foreign Affairs.

It can only be a question of deserters or defaulters coming under one of the following categories:

A. Deserters

1. Deserters before the beginning of hostilities.

2. Deserters after the beginning of the war, the great majority of whom consist of men who failed to rejoin their regiment upon the expiration of a permit granted to go to the United States.

B. Defaulters

1. Men declared defaulters prior to August 2, 1914, for failure to respond to an order to report and to a transportation order calling them together either in order to perform their active-service obligations or in order to pass a drill period in the reserve or territorial army.

2. Men declared defaulters since the beginning of hostilities because they belonged to a class of the reserve or territorial army and failed to rejoin their regiment at the time of the general mobilization within the periods prescribed by law.

3. Men belonging, owing to their age, or assigned to the classes called to the colors subsequent to August 2, 1914, and declared defaulters for failure to respond to a duly served order to report and to a transportation order.

As regards deserters, I consider that their double nationality cannot entitle them to any special favor.

As a matter of fact, whatever may be the date on which these men acquired American citizenship, they could not, upon leaving their

⁸⁹ File translation revised to accord with corrected copy of French text of this circular, transmitted to the Department with despatch no. 311, Sept. 8, from the Ambassador in France (file no. 351.117/214).

regiment, have been unaware of the fact that they were still French citizens and remained, in spite of everything, subject to the military obligations of this country.

None of them can seriously say that he was acting in good faith, and nothing but a judicial decision can rectify their status.

As to defaulters, I think it would be proper, in determining the rules to which they should be subject, to take into account both the date on which they acquired American citizenship and that on which they were declared defaulters.

1. Those who were born in the United States of French parentage should be considered as being released from their military obligations in France if they have complied with the military law of the United States, and their sojourn in France should consequently not be subject to any restrictions.

2. As far as those are concerned who were born in France but acquired American citizenship before being declared defaulters, it may be laid down as a principle that they may to a certain extent have been acting in good faith when they concerned themselves solely with their American military obligations, and the decision may be reached that if they satisfied the military laws of the United States they may return to and sojourn temporarily in France without risk of being disturbed as defaulters. It should be admitted that it will be sufficient for them, in order to reside thus in France, to request a special authorization from the French Embassy in the United States, which shall at the same time fix the length of their stay.

It should likewise be understood that those of them who have been excused from the American military service on account of ill health shall not be permanently stricken from the lists of defaulters unless they have also been considered by the physician designated by the French Embassy as being unfit for military service in France.

3. Those who, on the contrary, did not acquire American citizenship until after they had been declared defaulters in France must be treated more severely.

Ante bellum defaulters have by their own act deprived themselves of any right to special treatment, since they did not deem it proper to return to France at the time of the general mobilization, when they might have had applied to them the amnesty law of August 5, 1914. They must not be permitted to return to France, even temporarily, without running the risk of being arrested to answer for their crime, and their status can be rectified only by means of a judicial decision after they have been arrested.

As to defaulters who have not been declared such until after the beginning of hostilities, they shall enjoy the benefit of the provisions of circular No. 46. 454-2/10 of May 30, 1919.

Those of them who prove that they entered the service of the American Armies prior to their being declared defaulters shall be permanently stricken off the lists of defaulters, but they must, in the proper case, be called upon again to fulfill the remainder of their regulation period of service in France, after the time has been deducted which they actually passed in the American Army and for which they have benefited by the equivalence of services provided by circular No. 11.897-2/1 of June 3, 1915.

The others must have their status rectified by the court martial, which shall take into account the length of their services in the American Army, their behavior under fire, and any circumstances which may have induced them not to fulfill their duties toward France.

The advantage thus granted with respect to equivalence of services shall not be made contingent upon their having served on the French front, it being sufficient that the interested parties shall have enlisted in the service of the American Army.

These rules, of course, will cease to be in effect as soon as governmental action against the interested parties has become barred by limitation and as soon as a declaration of amnesty shall wipe away the crimes which may be imputed against them.

851.111/194

The Ambassador in France (Wallace) to the Secretary of State

No. 2297

PARIS, April 1, 1921.

SIR: Referring to the Department's cabled Instruction No. 87, of February 15th last, 4 p.m., regarding certain naturalized American citizens of French origin who experienced difficulty in obtaining a visa from the French authorities of their American passports, I have the honor to transmit herewith copy and translation of a Note received from the Ministry for Foreign Affairs in this connection.

I have [etc.]

HUGH C. WALLACE

[Enclosure—Translation ⁴¹]

The French Minister for Foreign Affairs (Briand) to the American Ambassador (Wallace)

Administrative Claims

3d Bureau

PARIS, March 24, 1921.

MR. AMBASSADOR: By a letter dated February 17 last, and acting under instructions from your Government, Your Excellency was good enough to make known to me that several naturalized American

⁴¹ File translation revised.

citizens of French origin had informed the Department of State at Washington that at the time of applying for the French visa of their American passports, the French consuls both in New York and in other cities, had declined to recognize them as American citizens, claiming that these individuals must use French passports wherein they would be described as French citizens. According to an example given, it would seem that the French vice consul in New York told one person who desired a visa to visit France, that he must renounce his American allegiance and assume French allegiance.

The Government of the United States has therefore requested Your Excellency to ask me to send instructions to the competent authorities in the United States, directing them not to advise American citizens to renounce their allegiance to the United States, nor to urge them to obtain French passports or to do anything which would imply the disavowal of their American nationality.

Although it is realized that, in view of the conflict of laws of the two countries, complications may arise regarding the status of persons of dual nationality, the Government of the United States hopes that, until these difficulties can be obviated by a satisfactory treaty of naturalization, the French Government will find it possible to make arrangements by which persons, owing fidelity to the United States and whose allegiance is claimed by France, who wish to proceed to France, can do so without being called upon in any manner to disown their allegiance to the Government of the United States, an allegiance which American citizens undertake to observe by solemn oath.

Finally, Your Excellency was good enough to ask me, in conformity with the instructions received from your Government, whether the French Government is willing to take up negotiations for a naturalization treaty.

My Department has thoroughly studied the communication of Your Excellency, in the most friendly spirit and with the sincere wish to find a solution to the difficulties which Your Excellency has been good enough to point out to me. I have the honor to communicate to you below the result of this study.

The Government of the United States—and such is its absolute right, as in acting thus it is only exercising the legitimate prerogatives of sovereignty—grants naturalization to foreigners, and in particular to French persons who comply with the legal conditions for obtaining this favor, without regard to the provisions of the legislation of their country of origin which restrict, in making it subject to certain conditions, their recognized right validly to renounce their nationality of birth.

There are grounds for recognizing with Your Excellency that no one has the right, within the territory of the United States, to urge individuals naturalized in such territory to renounce the allegiance

which has been conferred upon them by the sovereignty of the United States.

But the question at issue in the present case is in reality quite different.

Of all the countries in the world France is perhaps the one which has shown the most liberal tendencies as regards the liberty of expatriation, which the law of Congress of July 27, 1868,⁴² declared a natural right of man. Until the law of May 12, 1870, the United Kingdom of Great Britain and Ireland maintained the principle of perpetual allegiance: "once a subject, always a subject", which principle the United States has not expressly repudiated as regards American citizens, except by article 2 of the Federal law of March 2, 1907,⁴³ relative to the expatriation of citizens and their protection abroad. Moreover, until the law of July 22, 1913, on the acquisition and loss of Empire and State nationality, the German Empire did not admit naturalization abroad as a cause of loss of State nationality and of the quality of nationality of the Empire, and admits it now (article 25 of the above-mentioned law) only under a reservation allowing, with the connivance of the Empire authorities, the voluntary and secret preservation by the interested party of his nationality of origin concurrently with the nationality acquired upon his request. On the other hand, article 17 of the French Civil Code of 1804 provided without any restriction for the loss of French nationality as a result of the naturalization of French people abroad. The Imperial decree of August 26, 1811, enacted, it is true, severe penalties for French persons who obtained naturalization abroad without the consent of the Government, but these penalties had fallen into disuse with the circumstances which had given rise to them, and the bond of allegiance continued to be broken, and foreign nationality acquired by naturalization was recognized in France, as was expressly shown by the judgment of the Civil Court of the Seine (3d Chamber), of February 23, 1898, in the *Tirveillot* case.

Following the war of 1870-71, in view of the circumstances, France found herself under the necessity of having recourse to the institution of compulsory and personal military service, introduced by the law of July 27, 1872, on army recruitment.

In view of the stagnation of her population, France had to prevent Frenchmen from escaping their military obligations and eluding them through naturalization abroad. In consequence of the loss of French nationality, such naturalization did indeed result in the crossing out of the names of the men in question from the military

⁴² 15 Stat. 223.

⁴³ 34 Stat. 1228.

lists and registers, inasmuch as it is a French principle that no one can be allowed to serve in the French army unless he is French or a naturalized Frenchman (article 3 of the law of July 15, 1889, and article 3 of the law of March 21, 1905 on army recruitment.)

The French legislator of 1889 did not, however, abandon the traditional principle of liberty of expatriation. On the contrary, he reinforced it by abrogating the decree of August 26, 1811, and by including in item 1, paragraph 1, of article 17 of the Civil Code, modified by the law of June 26, 1889, as a cause of the loss of French nationality, the acquisition by a Frenchman at his request of a foreign nationality as a result of the law of naturalization, properly so called. But, in the 2d paragraph of article 17, item 1, he inserted the following reservation with a view to safeguarding the interests of national defense:

“If he (the Frenchman) is still under the obligations of military service in the active army (the term ‘active army’ including the inactive list and the reserve of such army), naturalization abroad will not result in the loss of the French nationality unless such naturalization has been authorized by the French Government.”

A similar reservation, prompted by the same spirit, exists in American law itself. Article 2 of the Federal law of March 2, 1907, relative to the expatriation of citizens and their protection abroad, while laying down as a principle that any American citizen shall be deemed to have expatriated himself when he has been naturalized in a foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state, adds *in fine* the following proviso:

“No American citizen shall be allowed to expatriate himself when this country is at war”.

It follows that naturalizations obtained by citizens of the United States under these circumstances, in contempt of the provisions of this law, do not result in the loss of American nationality, are not recognized in their effect by the Government of the United States, and cannot be pleaded against it on its territory.

This provision of the law contemplates only a time of war. But in reality it is more stringent than paragraph 2 of article 17, item 1 of the French Civil Code. In fact, it applies to all American citizens, without any distinction of age or sex, whereas paragraph 2, article 17, item 1 is applicable only to males and only to one category of them. Girls or women of age, widows, or divorced women, or those having only obtained judicial separation, since the law of February 6, 1893, amending article 311 of the Civil Code, Frenchmen definitively exempted from military service or having complied with

military obligations in the active army and in the reserve of the latter, and passed to the territorial army, who have obtained naturalization abroad, lose for this reason French nationality from the French point of view, without having to request or obtain any authorization from the Government beforehand.

However, Frenchmen who, being still under military obligations in the active army and its reserve, have secured naturalization abroad without having requested and obtained the authorization of the French Government beforehand, remain French from the French point of view, a subsequent authorization not having the power to set right their defective naturalization. It is the same with deserters and *insoumis* (defaulters) who, not having complied with military obligations for the active army, are still legally liable for them. Whatever their age may be, naturalization abroad does not cause them to lose their French nationality, according to the terms of article 17, item 1, paragraph 2 of the Civil Code.

This does not mean that the French administrative or judicial authorities are in a position to question the validity or pronounce the nullity of a document of naturalization emanating from a foreign sovereignty. International courtesy prevents it. But such a document can have no effect on French territory, and French nationality with its rights and the duties attached thereto is the only one which can be recognized on French territory in the individual in favor of whom the naturalization has taken place.

Furthermore, it is the same with individuals born in the United States of French parents not naturalized or [not?] naturalized before their birth, who are considered Americans *jure soli* by American law, whereas France considers them as French by birth, *jure sanguinis*, by virtue of article 8, paragraph 1 of the Civil Code, without according to them any right of option.

Each State on its territory, by virtue of its sovereignty, applies in the matter of nationality its own legislation which bears the character of public law, to the exclusion of any other.

The principle generally accepted and recognized in international relations, which principle is in conformity with this rule, is, as stated in Westlake, *International Law, Part I, Peace*, 1910, chap. X, p. 230, that in the absence of provisions by treaty clauses, no State ought to give protection to its nationals residing on the territory of another State which claims them as its nationals on any ground recognized in the civilized world, *jus soli*, *jus sanguinis*, or naturalization.

The French practice to which Your Excellency is good enough to allude, is in conformity with this principle.

In the United States a passport is not only a travel document, but a document indicative of nationality. The passport attests the American citizenship of the holder.

On arrival in France the passport is to serve as proof of nationality. The visa of such a document by our consuls would be tantamount to the official guarantee that this nationality will be recognized in him in France, whereas a formal provision of our domestic public law states that this cannot be guaranteed; that he has retained his status as a Frenchman in France, and that he must be treated here as such. Bound by French law, our agents, without contesting the American point of view regarding the value of the documents which are submitted to them, cannot give any such assurance to the applicants, which might mislead them concerning their real status under French law, which prevails exclusively on French territory and determines their status there. It is the duty of the French agents, while in no way urging the applicants to disown American allegiance, to inform them of the nationality which is attributed to them on French territory and of the conditions of admission thereon. Consequently, in spite of my earnest wish to give satisfaction to the request which Your Excellency has been good enough to address to me on behalf of the Government of the United States, it is not within my power to issue instructions recommending the violation of French legislation constituting public law and being of a public order.

I do not ignore the serious difficulties which arise from the absolute divergence of the two systems of laws as regards nationality, each one being sovereign in the territory which it governs. This situation is not peculiar to the relations between France and the United States. The same conflicts exist in our relations with many other States.

Your Excellency was good enough to suggest that an endeavor should be made to settle these difficulties by means of a treaty. In view of the particularly amicable relations which exist between the two countries, I do not feel that I should dismiss this suggestion. However, I must call Your Excellency's attention to the special difficulties which the conclusion of a treaty on such a subject offers. Firstly, from the constitutional point of view, such a treaty must be submitted to the approval of Parliament. Article 8, section II of the constitutional law of July 16, 1875, on the relations of the public powers provides in effect:

Treaties of peace, of commerce, other treaties which involve the finances of the State, those which refer to the status of persons and to the right of property of Frenchmen abroad are not definitive until they have been approved by a vote of the two Chambers.

Now, a treaty regulating questions of nationality is relative, in the highest degree, to the status of persons. I cannot, of course, prejudge the reception Parliament might possibly give a treaty modifying the fundamental principles on which our law on nationality is based at present but not finding its justification in actual reciprocity.

The convention of May 13, 1870, between the United States and Great Britain⁴⁴ was greatly facilitated, on the one hand, by the suppression of the principle of perpetual allegiance by the British law on nationality of May 12, 1870, and on the other hand, by the fact that the institution of compulsory military service was unknown in both countries.

As regards the celebrated Bancroft treaties⁴⁵ concluded in 1868 between the United States and the Confederation of Northern Germany, Bavaria, the Grand Duchy of Baden, Hesse, and Württemberg, it should be recalled that the laws of the greater part of the German States, like the subsequent law of June 1, 1870, on the acquisition and loss of Empire and State nationality, admitted as a cause of the loss of nationality an uninterrupted residence of ten years abroad. Hence, the treaties, in making the loss of German nationality a result of a reduced residence abroad of five years coexistent with naturalization in that country, did not derogate from a principle; they conformed to it, although they attenuated the original requirements of internal legislation. It is not the same as regards France, where French nationality is not lost through residence abroad, however protracted its duration may be, since the suspension by the law of June 26, 1889, of the cause of loss of nationality resulting from emigration without intention of returning.

Moreover the Bancroft treaties are far from having settled the question in an entirely satisfactory manner. In fact, it appears from the statistical reports of Mr. Squiers, Secretary of the Legation of the United States at Berlin, on the practical application of the Bancroft treaties, that the Imperial administration, under the influence of the necessities of recruitment and the tendencies to reinforce the military institutions of the German Empire, recognized so well immigrant Germans naturalized in the United States as Americans, that it expelled them *en masse*, judging their presence undesirable in the territory of the Empire as having a demoralizing effect on German nationals who had to comply with military obligations.

Finally, a special treaty on naturalization like the Bancroft treaties would have a limited object; it would leave out of its provisions

⁴⁴ Malloy, *Treaties*, vol. 1, p. 691.

⁴⁵ *Ibid.*, pp. 53, 60, 949, and vol. 2, pp. 1298, 1895.

the situation of individuals born in the United States of French parents not naturalized or [not?] naturalized before their birth, considered as Americans in the United States and as French in France, without any participation of their will. This situation, arising out of the absolute incompatibility of *jus sanguinis* and *jus soli* could not be settled without the formal renunciation by one of the two countries of the fundamental principle on which they base the attribution of nationality of origin.

I am none the less ready, as I have said before, to receive the overtures which Your Excellency might be led to make me, and to examine them in the most friendly and conciliatory spirit, while making reservations on the possibilities of reaching an agreement, in view of the special difficulties which I have pointed out and the necessity for Parliament's approval.

Please accept [etc.]

For the President of the Council,
Minister for Foreign Affairs and by order:

(signed illegibly)

The French Ambassador, Secretary General

FAILURE TO AGREE UPON THE RECIPROCAL USE OF THE ANNAPOLIS AND LAFAYETTE RADIO STATIONS FOR TRANSMITTING OFFICIAL MESSAGES⁴⁶

811.7451/1

The Ambassador in France (Wallace) to the Secretary of State

No. 1833

PARIS, November 24, 1920.

[Received December 9.]

SIR: With reference to previous correspondence concerning the reciprocal rights of the United States for the use of the Lafayette Radio Station at Croix d'Hins, France, I have the honor to enclose, in copy and translation, a Note dated November 22, 1920, from the Ministry for Foreign Affairs.

This communication is in reply to informal representations made by the Embassy, at the suggestion of the Naval Attaché, that the French Government should authorize certain of its delegates to the Preliminary Communications Conference⁴⁷ to discuss a reciprocity clause with the competent American authority.

I have [etc.]

HUGH C. WALLACE

⁴⁶ For previous correspondence concerning radio communication with France, see *Foreign Relations*, 1918, supp. 2, pp. 836 ff.

⁴⁷ For papers relating to this conference, see *ibid.*, 1920, vol. 1, pp. 107 ff.

[Enclosure—Translation ⁴⁶]

The French Minister for Foreign Affairs (Leygues) to the American Ambassador (Wallace)

PARIS, November 22, 1920.

MR. AMBASSADOR: You have been good enough to remind me recently of a communication from your Embassy, dated December 8, 1919, relative to the use by the United States of the Lafayette radio station for American official and commercial telegraphic correspondence.

This question, which has been examined with the greatest attention by the French Administration of Posts and Telegraphs, gives rise to the following observations:

1. The building of the Lafayette station was decided upon in 1917 by the American High Command in France as a war measure. Following the Armistice of November 11, 1918, the Lafayette station was turned over to the French Government. By the terms of the agreement of February 11, 1919,⁵⁰ this Government was charged with all the expenses incurred by the United States for the construction of the station.

2. Radio communication is provided for in the United States by stations belonging to private companies. This condition has no exception save for the Navy station at Annapolis. But when this station discontinues the commercial traffic which it provisionally assures with the Doua (Lyon) station, the Lafayette station will no longer be able to communicate to the United States for commercial telegrams except through private stations.

3. In normal times telegrams of foreign states are subject to the regular rates on telegrams; the Administration is not able to make an exception to this rule.

Under reservation of the preceding observations, the French Administration is entirely willing to transmit, under ordinary conditions, the official telegrams of the United States and of France via Lafayette and Annapolis or to receive them from Annapolis, when the Lafayette station is placed in operation. The Government of the United States has only to make known definitely its desire; it does not seem necessary to add a clause to that effect in the contract which was entered into between the two Governments on February 11, 1919.

Please accept [etc.]

For the Minister and by authorization:

MAURICE HERBETTE

The Minister Plenipotentiary

⁴⁶ Supplied by the editor.

⁵⁰ *Foreign Relations*, 1918, supp. 2, p. 841.

811.7451/2

The Secretary of the Navy (Daniels) to the Acting Secretary of State

DNC 12479-1072: 43

WASHINGTON, December 20, 1920.

SIR: I have the honor to inclose for your information in connection with the unsigned memorandum of Department of State dated 14 December, 1920,⁵¹ on the subject of reciprocal rights for the Lafayette Radio Station, a copy of a proposed agreement drawn up in a conference between Rear Admiral Bullard of this Department and Monsieur Broin and General Ferrié of the French delegation.⁵²

Monsieur Broin of the French delegation has a copy of the proposed agreement and upon his return to France the question of its ratification by the French Department of Posts and Telegraphs will be taken up by him. Unless or until further information as to the action taken by the French Department of Posts and Telegraphs is received, it is not believed that any further steps are necessary on the part of this Government.

Please accept my thanks for the co-operation and assistance rendered by the Department of State in connection with this matter.

Respectfully,

JOSEPHUS DANIELS

[Enclosure]

Draft of Proposed Agreement between the Navy Department and the French Department of Posts and Telegraphs Providing for the Reciprocal Use of the Lafayette and Annapolis Radio Stations

The following traffic agreement, so far as relates to government messages of the French and United States governments, is proposed:

(1) The Lafayette and Annapolis radio stations will continue to be available for the transmission of State telegrams emanating from French and American officials stationed in France or in the United States as defined in Article 5 of the Convention of St. Petersburg,⁵³ without charge to either government for the radio transmission and reception involved. Radio receiving stations in France and in the United States will be designated by the respective managements to ensure the reception of such messages transmitted by radio.

(2) Each of the above named stations may be used for the broadcasting of State telegrams, as defined above, transmitted into the

⁵¹ Not printed.

⁵² To the Preliminary Communications Conference.

⁵³ *I. International Telegraph Convention of St. Petersburg, 1875, etc.* Translation of the text issued by the International Bureau of the Telegraph Union, Berne, May, 1930 (Government Printing Office, 1930).

air and destined for vessels of the French or United States Navy as may be arranged by the administrations controlling the two stations, at the request of responsible officials of the two services.

(3) These stations shall reserve a period of time of sufficient length to permit the handling of all official messages filed by representatives of the respective governments.

(4) The right is reserved to suspend the provisions of this agreement in cases of national emergency.

811.7451/3

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, February 15, 1921.

SIR: I have the honor to acknowledge the receipt of your letter of January 31, 1921, enclosing a copy of a communication from the French Department of Posts and Telegraphs⁵⁴ relative to the draft agreement between the Governments of the United States and France providing for the reciprocal use of the Lafayette and Annapolis radio stations for the transmission of official messages.

It is noted that the French Department of Posts and Telegraphs accepts Articles 1, 3 and 4 of the proposed agreement, but objects to Article 2 on the ground that the use of the Lafayette station for broadcasting official messages to the navies of the two governments, would to that extent interfere with communication to and from the United States. It is also noted that the French Department of Posts and Telegraphs suggests the use of the station at Bordeaux for the purpose mentioned in Article 2 of the proposed agreement.⁵⁵

I shall be grateful for information as to the Navy Department's views on the subject, and as to the advisability of taking the matter up further with the competent authorities of the French Government through the American Ambassador in Paris.

I would suggest that, if and when the terms of the proposed agreement are formulated to the satisfaction of the two parties, an exchange of notes should take place between the diplomatic representative of the United States and the appropriate authority of the French Government.

I have [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary

⁵⁴ Neither printed.

⁵⁵ An error; for correct interpretation of French communication, see letter from the Secretary of the Navy, Feb. 18, *infra*.

811.7451/5

The Secretary of the Navy (Daniels) to the Secretary of State

Op-20-A

WASHINGTON, *February 18, 1921.*

SIR: I have the honor to acknowledge receipt of your letter of February 15, 1921, relative to the agreement between the French Department of Posts and Telegraphs and the Navy Department, for reciprocal use of the Lafayette and Annapolis Radio Stations in the transmission of official messages of the two Governments.

From your letter above referred to, it would appear that your understanding as to the Station which the French Department of Posts and Telegraphs suggests for the purpose mentioned in Article 2 of the proposed agreement is not quite the same as that held by the Navy Department, as it appears to this Department that the French Department of Posts and Telegraphs do not feel that it is at all desirable to use the Lafayette (Bordeaux) Station for transmitting radiograms to ships. It is believed, however, that the Department of Posts and Telegraphs of France intend using the high power station at Lyons very probably for the transmission of official radiograms addressed to Naval vessels. The designation of the Lafayette Station for the purposes mentioned in paragraph two of the tentative draft of agreement is, of course, greatly to be desired, owing to the greater range of that Station and consequent better service in transmission of official despatches to United States Naval vessels.

Any steps which the Department of State may be able to take to bring about the designation of the Lafayette Radio Station for the purposes mentioned in paragraph two of the proposed agreement will be greatly appreciated by this Department.

Very respectfully,

JOSEPHUS DANIELS

811.7451/13

The Ambassador in France (Herrick) to the Secretary of State

No. 711

PARIS, *November 7, 1921.*

[Received November 25.]

SIR: With reference to your instruction No. 779, dated March 16th last,⁵⁶ and other correspondence on the subject of the reciprocal use of the Lafayette (Bordeaux) and Annapolis radio stations, I have the honor to transmit herewith for the Department's informa-

⁵⁶ Not printed.

tion, copy and translation of a note received from the French Government in the premises.

This note maintains the same attitude as previously expressed by the French Authorities, that is, agreement as to Paragraphs 1, 3 and 4 of the draft agreement, but not as to Paragraph 2.

I have [etc.]

MYRON T. HERRICK

[Enclosure—Translation]

The French Minister for Foreign Affairs (Briand) to the American Ambassador (Herrick)

PARIS, November 4, 1921.

MR. AMBASSADOR: By letter dated July 28th last you were good enough to inquire whether it would be possible to utilize the station of Bordeaux-Lafayette for the transmission of State telegrams destined for American war vessels.

I have the honor to inform Your Excellency that the station Bordeaux-Lafayette is destined to ensure long distance communications, and particularly communications with the United States, and its utilization for the transmission of official messages to vessels would have the disadvantage, by limiting the time which might be given to exchanges with corresponding stations, of delaying the forwarding of commercial traffic.

It does not therefore seem desirable to open up the post of Bordeaux-Lafayette to communications with American vessels, and it has seemed preferable to the Under-Secretary of State of Posts and Telegraphs to put the station of Lyons in charge of these transmissions.

Kindly accept [etc.]

For the Minister and by authorization:

R. PÉAN

Minister Plenipotentiary

MISSION OF M. RENÉ VIVIANI TO THE UNITED STATES

033.5111/61

The Ambassador in France (Wallace) to the Secretary of State

No. 2218

PARIS, March 11, 1921.

[Received March 25.]

SIR: I have the honor to report to the Department that the following note in regard to ex-Premier Viviani's visit to the United States was published in the French Press of March 8:

"The French Government is sending M. Viviani to Washington on a special mission to convey to the United States the congratulations of friendly France, on the occasion of the coming into office of President Harding.

This visit will have a particular significance in the eyes of the Americans.

At the moment when the direction of the affairs of the State changes hands in the United States, it will mark the lasting friendship of the French people for the sister nation which, in the difficult hours of the Great War, maintained the noble traditions inaugurated between the two nations during the heroic epoch of the War of Independence.

M. Viviani was at the head of the French Government during the tragic hours of the German declaration of war; he received in the United States, in company with Marshal Joffre, an unforgettable welcome when he went to thank the American people for the cooperation so enthusiastically given; finally, he took part in the labors of the French Parliament and of the League of Nations in a way that cannot be forgotten; he is better able than anyone else to testify to France's pacific designs; to trace the line of the wonderful efforts which she has already accomplished in order to regain in the world the place to which the services rendered to humanity give her a right; and also to show the necessity for her to find, in a just execution of the Treaty, accepted by Germany, the means to repair the ruins caused by a war of which she has borne the heaviest burden, and to prevent, by disarmament, a return to the crimes against civilization and liberty."

In an interview with *Le Matin*, M. Viviani is stated to have declared:

"Several weeks ago, M. Briand asked me if I would go to America immediately after the inauguration of President Harding to salute him in the name of the French Democracy and to demonstrate through him to the American people the ardent sympathies and the imperishable gratitude of France".

After mentioning the announcement made public concerning him, the ex-Premier said he expected to arrive in Washington about March 28th and that his first duty would be to call upon the President. He concluded the interview with the following words:

"I shall probably have occasion, in the course of the conversations which will be held, to cause the true democratic and pacific character of France to appear, and to explain that this disinterested nation, which has fought for civilization and for liberty, demands only her right and recently has even reduced the figure in the interests of the peace of the world. I go alone, counting furthermore upon the valuable assistance of our eminent Ambassador, M. Jusserand, and of the French services. I expect to be back in France during April and shall be happy if I can, in the interests of my country, fulfil the confidential mission with which its Government has charged me."

The French text of the official note and of M. Viviani's interview with *Le Matin*, as published by that paper on March 8, are forwarded as an enclosure to this despatch.⁵⁷

Le Temps issues a semi-official note denying the report said to have been published in certain newspapers or agencies of the United States to the effect that M. Viviani in the course of his mission to America has been charged with the discussion of the question of the Inter-Allied debts.

I have [etc.]

HUGH C. WALLACE

462.00 R 29/3457

Memorandum by the Under Secretary of State (Fletcher)

Memorandum of interview held in office of the Secretary of State,
Wednesday, March 30, 1921.

Present:

Mr. Viviani

Secretary of State

Mr. Jusserand

Under Secretary of State

Mr. Viviani, after being introduced by Ambassador Jusserand, informed the Secretary of State that in the first place he wished to correct a misapprehension which had been given currency by newspaper reports to the effect that he had come here to secure remission of the French debt to the United States. He said that this was entirely incorrect; that he wished to say that France had pledged her faith in the obligations to the United States and expected to make payment.

German reparations—Mr. Viviani then turned to the question of the reparations due by Germany to France. He said that France at the time of the signing of the Treaty of Versailles felt satisfied, but that the Treaty had not worked out as she hoped and expected; that England had secured immediate satisfaction in the disposition of the German colonies and merchant fleet, whereas the reparation payments due France, which had necessarily to be deferred, had not so far been satisfactorily adjusted, and sketched rapidly the causes leading up to the present occupation of the Rhineland. He stated that France could not be militaristically inclined, in view of the losses which she had sustained and the million and a half men killed and almost half as many wounded and disabled.

He then turned his attention to the financial situation of France, stating that although the war had cost an enormous sum France had not followed Germany's example of 1870 by demanding repayment of the cost of the war, but had merely asked a sum sufficient to pay

⁵⁷ Not printed.

pensions and actual restoration of the devastated district, and he recited figures to prove that payments by Germany, as provided for in the Treaty, were absolutely necessary to save France from bankruptcy; that the French Government has practically reached the economic limit of her borrowing. The Secretary replied to this that our Commissioner in Berlin had been instructed to say to the German Government that this Government felt that Germany should not only acknowledge her responsibility, but that she should pay to the limit of her ability.⁵⁸

Separate peace.—Mr. Viviani then turned to the subject of a separate peace with Germany. He stated that his Government was extremely apprehensive on this score, and felt that if the United States would make a separate treaty of peace with Germany it would be extremely difficult for the Allies to exact compliance on the part of Germany with the terms of the Treaty of Peace. Mr. Viviani very earnestly sketched the disastrous consequences which he feared would follow a separate peace between Germany and the United States. Secretary Hughes replied that he felt that there was today in the United States greater opposition to the Treaty of Versailles than at the time of the last election even, and that this opposition, which was crystalized during the debate upon this Treaty in the Senate and the last Presidential campaign, had been intensified, if anything, by observation of what had been done by the League in disregard of American rights, and that as sentiment formed against the Treaty, the idea of separate peace with Germany gained ground.

League of Nations—This brought into the discussion the question of the League of Nations. Mr. Viviani was careful to state that in any discussion of the League of Nations he could not speak either as the representative of France or of the League of Nations itself, and that anything that he might say would be purely from a personal point of view. Secretary Hughes replied that he understood that perfectly and that anything which he himself might say must be taken also as a mere personal and informal expression of opinion, in no way binding the Government of the United States. The discussion therefore proceeded on the theory that it was an informal and confidential exchange of views.

Mr. Viviani pointed out that France and the other Allied Powers, with the exception of the United States, had ratified the Treaty, and that as a consequence the League of Nations had come into being and comprised some forty nations of the earth; that it was a distinct international entity. He stated that if our objections related only to Article X, it ought to be a simple matter to come to some under-

⁵⁸ See telegram no. 553, Mar. 29, to the Commissioner at Berlin, vol. II, p. 40.

standing, that in his personal opinion Article X was perfectly valueless and unimportant, and as proof of this he referred to the discussion of Armenian affairs before the League at Geneva. He stated that in practice, due to slow operation of the League machinery, the guaranty under Article X was ineffective, that he personally was opposed to it because of the encouragement it might give to the smaller states in their international relations. He said he knew of course of the other objections which have been raised to the Covenant of the League of Nations, and that he would be very glad to go over them to see whether the parts objected to by us might not be eliminated. He thought that there would be no difficulty in England and France, after an informal exchange of views, recommending to the League of Nations such amendments to the Covenant as would enable us to take the place in the League which was waiting for us. Secretary Hughes replied that the Peace Conference had departed from the original idea of the League of Nations by making it not only an instrument for conference and conciliation, with a view to preserving the peace of the world, but also by charging it with certain definite duties in connection with the enforcement of the terms of the Treaty, and that the opposition of the American people to the League had grown after seeing it in operation, and mentioned as an incident of this action of the League through the Council in its distribution of mandates not only without the consent, but over the formal protest of the United States. The Secretary said that he felt he ought in candor to make very clear to Mr. Viviani the state of public opinion in this country on the subject of the League. He stated that he assumed that Mr. Viviani and the Ambassador would not deny that the United States could not be divested of the rights accruing to it as one of the victorious Allied Powers except by a Treaty signed and ratified by us. This position was readily assented to. The Secretary again referred to the course of the Council in distributing mandates without regard to our rights, and mentioning specifically the case of Yap where the attitude of France and England seemed to be that it was not their affair but that we should settle the matter with Japan, and the information which we had had from the French Government that as far as it was concerned the matter had been definitively settled. Secretary Hughes said that he had referred to this merely as an illustration of the difficulties which had been created as a consequence of making the League of Nations an instrument for the enforcement of the Treaty and of the difficulties which would confront the United States in entering it. The Secretary stated that, as he had informed Ambassador Jusserand in previous conversations, he felt that this question of mandates could not be settled in disregard of the rights of the

United States, and that in the case of Yap it was not a matter which depended solely upon an agreement between Japan and the United States, and he asked what France would have said if, in a similar situation to that now occupied by the United States, the other Allied Powers had assigned the Saar Valley to another. The Secretary said that while there was no comparison in the relative importance of the two examples, the underlying principles were the same.

The Secretary asked whether, in view of the state of public opinion in this country with respect to the League and the consequent drift toward a separate peace, the French Government could make an alternative suggestion. Both Messrs. Viviani and Jusserand felt that the French Government would find great difficulty in making any such suggestions and believed that the suggestion should come rather from the United States. Mr. Jusserand then stated that the President had informed him that he was not in favor of a separate peace. Secretary Hughes replied that while the President felt so with respect to a separate peace at this time, yet in view of the strong public opinion in this country with reference to the Treaty and League, unless an alternative were suggested which would have the general support of public opinion here, a separate peace might be the only course left open to us.

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